

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to end double taxation of attorney's fees.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00897 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO END DOUBLE TAXATION OF ATTORNEY'S FEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. It is hereby found and declared that the purpose of this act is to end the double
2 taxation of attorneys' fees obtained through judgments and settlements and to clarify that
3 attorneys have a sufficient property interest in their clients' cases so that the attorney's fee
4 portion of an award or settlement may be taxed only once and against the attorney who actually
5 receives the fee.

6 SECTION 2. Section 50 of Chapter 221 of the General Laws, as appearing in the 2006 Official
7 Edition is hereby amended by striking said section and inserting in place thereof the following:-
8 "Section 50. From the authorized commencement of an action, counterclaim or other
9 proceeding in any court, or appearance in any proceeding before any state or federal department,
10 board or commission, the attorney who appears for a client in such proceeding shall have a lien
11 to the extent of fees and compensation specially agreed upon with the client, or if there is no

12 agreement, for his reasonable fees and expenses upon his client's cause of action, counterclaim or
13 claim, upon the judgment, decree or other order in his client's favor entered or made in such
14 proceeding, and upon the proceeds derived therefrom. Said lien shall be superior to all other
15 liens, except tax liens, and shall not be affected by a settlement between the parties to the action,
16 suit or proceeding until the lien of the attorney is satisfied in full. The attorney shall have the
17 same right and power over actions to enforce their liens under this section as their clients have
18 for the amount due thereon to them. Upon request of the client or of the attorney, the court in
19 which the proceeding is pending or, if the proceeding is not pending in a court, the superior
20 court, may determine and enforce the lien; provided, that the provisions of this sentence shall not
21 apply to any case where the method of the determination of attorneys' fees is otherwise expressly
22 provided by statute.”

23 SECTION 3. This act shall be effective as of December 31, 2009.