

**MASSACHUSETTS STATUTES  
ALLOWING/MANDATING ATTORNEY’S FEES  
TO PREVAILING PARTIES**

**General Applicability & Consumer**

**1. M.G.L. c. 12 Mass. Civil Rights Act**

- **§ 11I. Violations of constitutional rights; civil actions by aggrieved persons; costs and fees**

Any person whose exercise or enjoyment of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth, has been interfered with, or attempted to be interfered with, as described in section 11H, may institute and prosecute...a civil action for injunctive and other appropriate equitable relief as provided for in said section, including the award of compensatory money damages. Any aggrieved person or persons who prevail in an action authorized by this section **shall be entitled** to an award of the costs of the litigation and **reasonable attorneys' fees** in an amount fixed by the court.

The private right of action under Massachusetts Civil Rights Act (MCRA) § 11I explicitly provides for recovery of reasonable attorney fees for “[a]ny aggrieved ... persons who prevail in an action” under the MCRA. *Brunelle v. Lynn Public Schools*, 433 Mass. 179, 181–182, 740 N.E.2d 625, 627 (2001). The SJC, analogizing to the federal Civil Rights Act, has concluded that a party “prevails” under the MCRA if success is achieved “on a substantial question of law arising out of a common nucleus of facts that gives rise to a cause of action under the statute.” *Batchelder v. Allied Stores Corp.*, 393 Mass. 819, 822, 473 N.E.2d 1128, 1130 (1985)(other citations omitted). Where a plaintiff prevails on a claim brought simultaneously with and substantially equivalent to the MCRA claim, success on the companion claim entitled him to recover attorney fees under the MCRA.

**2. M.G.L. c. 62F**

- **§7. Taxpayer Suits**

The Supreme Judicial Court or Superior Court may, upon the petition of not less than twenty-four taxable inhabitants of the Commonwealth, not more than six of whom shall be from any one county, enforce the provisions of this chapter. If successful, said taxable inhabitants shall be entitled to recover **reasonable attorneys' fees** and other costs from the Commonwealth incurred in maintaining such suit.

**3. M.G.L. c. 71**

- **§ 37D. Racial imbalance; definitions; statistics; transfers; priorities; plans for elimination; public hearings; regulations; jurisdiction; costs; attorney's fees**

...in any such action commenced by or on behalf of any pupil to enforce his right, as provided by this section, to be transferred to and to attend any school, which action

is concluded in favor of such pupil, the school committee or regional district school committee having jurisdiction over such school shall be liable to such pupil or the person commencing such action on his behalf for his costs and **reasonable attorney's fees**.

4. **M.G.L. c. 90**

- **§7N ¼ - Massachusetts “Lemon Law”**

[F]ollowing arbitration an aggrieved consumer has the right to pursue a claim pursuant to 93A. In addition to the provisions of 93A, a prevailing consumer shall be awarded reasonable attorneys fees and costs following a successful arbitration.

5. **M.G.L. c. 93 Regulation of Trade and Certain Enterprises,**

- **§ 63. Willful noncompliance; liability for damages**

“Any consumer reporting agency, person who furnishes information to any consumer reporting agency, or user of information which **willfully fails to comply** with any requirement imposed under sections 50 to 62A, inclusive, with respect to any consumer shall be liable to that consumer” for actual and punitive damages, and

(3) in the case of **any successful action to enforce any liability** under this section, the costs of the action together with **reasonable attorney's fees** as determined by the court.

6. **M.G.L. c. 93 Regulation of Trade and Certain Enterprises**

- **§ 93 Liability of lessor; limits on recovery; offset and counterclaim**

Requires certain terms and disclosures on consumer leases (leases with options to purchase). Any lessee who proves a violation may recover actual damages, certain % of the monthly payments, and **attorney's fees**.

7. **M.G.L. c. 93 Regulation of Trade and Certain Enterprises**

- **§ 103. Equal rights; age and handicap; violations; remedies**

8. **M.G.L. c. 93A Regulation of Business Practices for Consumers' Protection**

- **§ 9. Civil actions and remedies; class action; demand for relief; damages; costs**

Any person... injured by another person's use or employment of any method, act or practice declared to be unlawful by §2 or any rule or regulation issued thereunder...may institute an action... whether by way of original complaint, counterclaim, cross-claim or third party action.... [D]amages **may include** double or treble damages and **attorney's fees** and costs....

Practice Note: Section 9 (4) provides for attorney's fees to successful plaintiffs. Also has a way for defendants to limit their liability for fees by making reasonable offer of settlement within 30 days of initial 93A written demand.

Practice Tip: Not enough to be considered a prevailing party; need judgment on claim to be entitled to fees. If you're negotiating a settlement, be sure to include entitlement to fees in your settlement agreement.

**9. M.G.L. c. 93A**

- **§ 11**  
Right to attorney's fees for persons engaged in trade or business.

**10. M.G.L. c. 140D Truth in Lending Act (TILA) and Mass. Consumer Credit Cost Disclosure Act (CCCDA)**

- **§ 32 Creditor's failure to comply with law; damages**

(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or any rule or regulation issued thereunder...is liable [for]...: actual damages; liquidated damages (calculated differently for individual and class actions); and (3) In the case of any successful action to enforce the foregoing liability or in any action in which a person is determined to have a right of rescission under §10, the costs of the action, together with a reasonable **attorney's fee** as determined by the court.

**11. M.G.L. c. 167B Electronic Branches and Electronic Fund Transfers (EFT)**

- **§ 20. Liability of any Person to Consumer**

Statute prohibits compulsory consumer EFT's and requires disclosures of fees.

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable **attorney's fee** as determined by the court.

**12. M.G.L. c. 214 Equity Jurisdiction**

- **§ 3B. Fair information practices of public holders; violations of chapter 66A; remedies; limitation**

Any holder, as that term is defined in chapter sixty-six A [FIPA], which violates any provision of said chapter sixty-six A, shall be liable to any individual who suffers any damage as a result of such violations.... Notwithstanding any liability for actual damages as may be shown, such holder shall be liable for exemplary damages of not less than one hundred dollars for each violation together with such costs and reasonable **attorney's fees** as may be incurred in said action.

In *Torres v. Attorney General*, 391 Mass. 1 (1984), SJC held that legal services entitled to fees "incurred."

**13. M.G.L. c. 218 Courts, Judicial Officers and Proceedings in Civil Cases**

- **§ 2A. Transfer of civil actions brought in wrong (district) court**

Fees available to defendants for time spent litigating in the wrong court.

**14. M.G.L. c. 231 Courts, Judicial Officers and Proceedings in Civil Cases**

- **§ 6F. Costs, expenses and interest for insubstantial, frivolous or bad faith claims or defenses**

Upon motion of any party in any civil action in which a finding, verdict, decision, award, order or judgment has been made by a judge ...the court may determine... that all or substantially all of the claims, defenses, setoffs or counterclaims, whether of a factual, legal or mixed nature, made by any party who was represented by counsel during most or all of the proceeding, were wholly insubstantial, frivolous and not advanced in good faith. The court shall include in such finding the specific facts and reasons on which the finding is based. See, *O'Leary v. Education Resources Inst., Inc.*, 61 Mass.App.Ct. 653 (2004).

If such a finding is made with respect to a party's claims, the court shall award to each party against whom such claims were asserted an amount representing the **reasonable counsel fees** and other costs and expenses incurred in defending against such claims....

Statute provides an incentive to settlement: If any parties to a civil action shall settle the dispute which was the subject thereof and shall file in the appropriate court documents setting forth such settlement, the court shall not make any finding or award pursuant to this section with respect to such parties. However, the parties may separately agree to a fee award.

Attorney's fees are also available for time spent on appeal. *Fabre v. Walton*, 441 Mass. 9, 10-11 (2004) sets out the procedure for claiming those fees.

**15. M.G.L. c. 231**

- **§59F Strategic litigation against public participation; special motion to dismiss (Anti-SLAPP Statute)**

The Anti-SLAPP Statute protects a plaintiff against a counter-suit. The purpose of the statute is to protect individuals who exercise their right to petition from harassing litigation and the costs and burdens of defending against retaliatory lawsuits. *Fabre v. Walton, et al.*, 436 Mass. 517, 523 (2002); *Duracraft Corp. v. Holmes Products Corp.*, 427 Mass. 156, 161-162 (1998). Under the anti-SLAPP statute, the Court may grant a special motion to dismiss early in the litigation "unless the party against whom such special motion is made shows that: (1) the moving party's exercise of its right to petition was devoid of any reasonable factual basis or any arguable basis in law; and (2) the moving party's acts caused actual injury to the responding party." M.G.L. c. 231 § 59H.

If the court grants the special motion to dismiss, the court shall award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters.

**16. M.G.L. c. 231**

- **§ 118. Temporary appellate relief from interlocutory orders; appeals to appeals court or supreme judicial court**

If the petition [for interlocutory relief] is filed with respect to a discovery order and is denied, the single justice **may**, after such hearing as the single justice in his discretion deems appropriate, require the petitioning party or the attorney advising the petition or both of them to pay to the party who opposed the petition the reasonable expenses incurred in opposing the petition, including **attorney's fees**, unless the court finds that the filing of the petition was substantially justified or that other circumstances make an award of expenses unjust.

**17. M.G.L. c. 6. The Governor, Lieutenant Governor and Council, Certain Officers Under the Governor and Council, and State Library**

- **§ 177 Violations; civil liability**

Applies to a number of executive Boards, most importantly, to the Criminal History Systems Board (§§168-176). Creates cause of action and availability of injunctive relief, compensatory and exemplary damages, including attorney's fees and costs, for *willful* violations of statutory duties or authority.

## **Elder**

- 18. M.G.L. c. 19A Department of Elder Affairs Ombudsman Program**
  - **§ 33A. Liability of ombudsmen; willful interference with duties; retaliation**
  
- 19. M.G.L. c. 93. Regulation of Trade and Certain Enterprises**
  
- 20. Regulation of the Sale of Hearing Aids**
  - **§ 102. Equal rights; violations; civil actions; costs**
  
- 21. M.G.L. c. 93 Regulation of Trade and Certain Enterprises**
  - **§ 103. Equal rights; age and handicap; violations; remedies**

## Employment

### 22. M.G.L. c. 19C Disabled Persons Protection Commission

- **§ 11. Retaliation for reporting abuse**

Penalties for retaliating against any employee or other person who reports abuse of disabled persons. "No person shall discharge or cause to be discharged or otherwise discipline or in any manner discriminate against or thereafter take any other retaliatory action against any employee, client or other person for filing" a (non-false) abuse report.

Provides for treble damages, **attorney's fees** and costs

### 23. M.G.L. c. 111 Public Health

- **§ 72G Reports of abuse of patients**

Any healthcare worker who is mandated reporter of abuse/neglect or misappropriation of property, and any non-mandated reporter who makes such a report is protected against civil liability so long as report is made in good faith.

If required to defend against such a suit, "in a civil action commenced against a person making such report, if the court finds in favor of the defendant, the court shall order the plaintiff to pay the defendant reasonable costs and expenses including, but not limited to, **attorneys' fees**, lost wages and court costs."

### 24. M.G.L. c. 111L

- **§ 7 Refusal to conduct embryonic stem cell research by employee; retaliation prohibited; enforcement; notice of rights under chapter**

### 25. M.G.L. c. 119 Protection and Care of Children

- **§ 51A. Reporting of suspected abuse or neglect; reports; mandated reporters; collection of physical evidence; penalties; ...**

(h) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and **attorney's fees**. (see also §51B(o)).

### 26. M.G.L. c. 149 Labor and Industries

- **§ 19B. Lie detector tests; use as condition of employment; penalty; civil action**

Use of lie detector tests as a condition of employment or continued employment is illegal for employment in Massachusetts (exception for

employees who are under criminal investigation for committing crime while on the job). *Bellin v. Kelley*, 48 Mass. App. Ct. 573 (2000), *modified*, 435 Mass. 261 (2001)).

Any person aggrieved by employer's failure to put the statutorily required notice in clear, legible print on employment applications, or where employer refuses to hire, or discharges for refusal to take test may bring a "civil action for injunctive relief and any damages thereby incurred, including treble damages for any loss of wages or other benefits. The total awarded damages shall equal or exceed a minimum of five hundred dollars for each such violation. A person so aggrieved and who prevails in such action shall be entitled to an award of the costs of the litigation and reasonable **attorney fees.**"

**27. M.G.L. c. 149 Labor and Industries**

- **§ 27. List of jobs; classification; schedule of wages; penalty; civil action**

Failure to pay prevailing wage. Employee may file, 90 days after filing complaint with AG, a civil action for injunctive relief, damages and costs. Prevailing employee shall be awarded treble damages as liquidated damages for lost wages and benefits, **attorney's fees** and costs.

Similar damages, attorney's fees and costs for violations of § 27F, wages of operators of rented equipment; § 27G, wages of employees of moving contractors, and § 27H, wages of employees of maintenance or cleaning contractors.

- **§ 33E. Violation by municipal, county or state employer guaranteeing employee right to take 30 day LOA with pay to be organ donor.**

**28. M.G.L. c. 149 Labor and Industries**

- **§ 105A Massachusetts Equal Pay Act. Prohibits pay inequities between males and females in comparable positions.**

Also covers employers not covered by c. 151B. "No employer shall discriminate in any way in the payment of wages as between the sexes, or pay any person in his employ salary or wage rates less than the rates paid to employees of the opposite sex for work of like or comparable character.... in addition to any judgment..., [the court shall] allow a reasonable **attorney's fee** to be paid by the defendant, and the costs of the action."

**29. M.G.L. c. 149**

- **§148 (payment of wages);**
- **§148A (protection against retaliation);**
- **§148B (persons deemed employees and not independent contractors);**
- **§ 150C (improper withholding/deduction from wages);**
- **§ 152A (tip pooling statute); and**

- **§ 159C (limitations on transportation costs charged to day laborers)**

Violations of the above sections are enforceable under §150, providing for attorney's fees.

**30. M.G.L. c. 149**

- **§ 150. Complaint for violation of certain sections; defenses; payment after complaint; assignments; loan of wages to employer; civil action**

An employee claiming to be aggrieved by a violation of [various wage payment provisions contained in c. 149] may, 90 days after the filing of a complaint with the attorney general, [or sooner if AG consents], institute and prosecute in his own name... a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for any lost wages and other benefits and **shall** also be awarded the costs of the litigation and **reasonable attorneys' fees**.

**31. M.G.L. c. 149 (Massachusetts Whistleblower Statute)**

- **§ 185 Retaliation against employees reporting violations of law or risks to public health, safety or environment; remedies**

Employers who violate this section liable for reinstatement, three times lost wages, benefits and other remuneration, interest and reasonable costs and **attorneys' fees**.

**32. M.G.L. c. 149**

- **§187 Health care providers; protection from retaliation by health care facilities**

Protects licensed health care providers from retaliation where they report to a manager, file a report or complaint, or disclose to a public body, practice which they reasonably believe are violations of law or pose risk to public health. In addition to injunctive relief and reinstatement, court may order restoration of all wages, benefits and seniority rights, and under § 187 (d) (5), litigation costs and **attorneys' fees**.

**33. M.G.L. c. 150A**

- **§ 3A Domestic service employee defined; violations; discharge; presumption; damages; costs**

Any domestic service employee who is discharged within 3 months of making a report or complaint of any violation (regarding obstruction of right to organize or commission of unfair labor practices) shall create a rebuttable presumption the discharge is retaliatory, and employer is liable for damages, costs of suit and **attorneys' fees**.

**34. M.G.L. c. 151 Minimum Fair Wages**

- **§ 1B Overtime compensation; failure to pay; penalties; collection proceedings; unclaimed awards; deposit of funds**

An employee...who prevails...shall be awarded treble damages, as liquidated damages, for lost overtime compensation and shall also be awarded the costs of the litigation and reasonable **attorney's fees**.

**35. M.G.L. c. 151**

- **§ 19 Punishments for stated acts**

Any employer who discharges or discriminates against an employee for complaining about wage or other violations under this chapter, or for testifying or intending to testify about said violations, shall be subject to civil penalties, and liable for up to two months wages, and reasonable **attorney's fees**.

**36. M.G.L. c. 151**

- **§ 20. Payment of less than minimum fair wage; recovery of deficiency; unclaimed award; deposit of funds**

**37. M.G.L. c. 151B Unlawful Discrimination Because of Race, Color, Religious Creed, National Origin, Ancestry or Sex**

- **§ 5 Complaints; procedure; limitations; bar to proceeding; award of damages**

**38. M.G.L. c. 151B**

- **§ 9. Construction and enforcement of chapter; inconsistent laws; civil remedies; speedy trial; attorney's fees and costs; damages**

If the court finds for the petitioner it shall, in addition to any other relief and irrespective of the amount in controversy, award the petitioner reasonable **attorney's fees** and costs unless special circumstances would render such an award unjust.

**39. M.G.L. c. 151E Prohibition of Certain Discrimination by Businesses**

- **§ 3. Violations; damages; injunctions**

Prohibits businesses doing business in the Commonwealth from entering into contracts with foreign entities that are based upon discriminatory provisions. Persons injured may seek injunctive relief and damages, plus costs and reasonable attorney's fees.

**40. M.G.L. c. 152 Workers' Compensation**

- **§ 10. Claims for benefits; complaints requesting modification or discontinuation of benefits; conciliation**

- **§ 12A. Award of costs and attorney's fees**

Claimant who successfully appeals to Appeals Court or SJC, or wins in Superior Court, is entitled to, "in addition to the award in the judgment, an amount equal to the reasonable cost of his attorney's fees, briefs and other necessary expenses that result from the appeal."

- **§13A. Attorney's fees for employees**

Automatic attorney's fees of \$700 due where insurer fails to pay claim within 21 days, and then settles and pays before conference.

- **§ 25C. Failure to provide for payment of compensation; stop work orders; penalties; liens; actions brought by losing bidders**

- **§ 75A. Preferences for hiring**

- **§ 75B. Qualified handicapped persons; discrimination against employees exercising rights under this chapter; disclosure of data**

(2) No employer... shall discharge, refuse to hire or in any other manner discriminate against an employee because the employee has exercised a right afforded by [the workers' comp statute], or who has testified or in any manner cooperated with an inquiry or proceeding pursuant to this chapter, unless the employee knowingly participated in a fraudulent proceeding.... An employer found to have violated this paragraph shall be exclusively liable to pay to the employee lost wages, shall grant the employee suitable employment, and shall reimburse such reasonable attorney fees incurred in the protection of rights...

**41. M.G.L. c. 234A. Office of Jury Commissioner for the Commonwealth**

- **§ 61. Violation of Sec. 60; harassment, etc. of employee**

## Family Law

### 42. M.G.L. c. 119

- **§51A: Reporting of Suspected Abuse or Neglect: Mandated Reporters**

51B Investigation of Report of Abuse

(o) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, provides such information, testifies or is about to testify in any proceeding involving child abuse or neglect unless such person perpetrated or inflicted such abuse or neglect. Any employer who discharges, discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees.

### 43. M.G.L. c. 119A. Child Support Enforcement

- **§ 12. Support orders; enforcement; arrearages; assignment of wages; notice and hearing; order**

An employer or provider of health care coverage who, upon notice of a health care order, fails without reasonable cause to enroll a child in a health care plan shall be liable in a civil action, action for contempt, or other appropriate proceeding for the full amount of the medical costs incurred and for attorneys' fees.

#### **General Principles Governing the award of attorney's fees in domestic relations cases**

In any divorce or separate support proceeding, costs and expenses, including attorney's fees, may be awarded to either party or to his or her counsel. *Hayden v. Hayden*, 326 Mass. 587, 96 N.E.2d 136 (1950).

General Limit on Awards: "Cases on this subject indicate that awards in domestic relations litigation are to be governed by caution and restraint, for fees in such cases are awarded strictly on conservative principles." *Krock v. Krock*, 46 Mass. App. Ct. 528, 534 (1999)(citations omitted).

The exception to this is for enforcement of orders in contempt actions. In those cases, public policy allows collection of the prosecuting attorney's full fees and costs. These cautionary principles also are inapplicable where a party is abusing process, filing frivolous motions, or failing to respond to legitimate discovery requests.

- See, *Amaral v. Amaral*, 71 Mass. App.Ct. 1118 (2008). The judge found the husband in contempt for his failure to comply with the rules of discovery, his violation of the pretrial order, and his behavior during trial. In addition to \$ sanctions, ordered the husband pay the wife's attorney's fees for both the trial and the post-trial contempt motion/hearing.

### 44. M.G.L. c. 207 Divorce and Separation

*Vural v. Vural*, 57 Mass.App.Ct. 1105 (2003). Wife failed to establish that requiring her to pay counsel fees incurred by husband in contesting wife's

persistent charge that he would permanently remove the children to Turkey was error.

Attorney's fees are available in annulment proceedings as well as divorce. *Furst v. Furst* 352 Mass. 774 (1967). In *Furst*, the wife was awarded attorney's fees after successfully defending against husband's complaint for annulment.

**45. M.G.L. c. 208**

- **§17**
- **§38**

The Court may order, pursuant to M.G.L. c. 208 §17, that either party pay into the court for the use of the other party during the pendency of such an action "an amount to enable him to maintain or defend the action." These *pendente lite* fees usually would be deducted from her/his portion of marital estate.

"Costs and expenses" that may be awarded under c. 208, § 38 include attorney's fees. *Borgarello v. Borgarello*, 388 Mass. 652, 447 N.E.2d 664 (1983).

Award of fees can extend to post-divorce proceedings. See *Brooks v. Brooks*, 65 Mass.App.Ct. 129, 837 N.E.2d 308 (2005) (authority to award fees under M.G.L. c. c. 208, § 38, extends to fees and expenses incurred in defending complaint for modification of child support).

However, a provision in a separation agreement which is merged into a divorce judgment requiring each party to pay his or her own counsel fees precludes application of the statute authorizing the court to award attorney's fees to either party in a divorce action.

See, generally, 14A Mass. Prac., Summary Of Basic Law § 8.212 (4th ed.), Chapter 8. Domestic Relations, J. ENFORCEMENT OF DOMESTIC RELATIONS OBLIGATIONS.

**46. M.G.L. c. 209 Husband and Wife**

- **§33 Separate Support or Maintenance**

Permits the award of attorney's fees in separate support actions because it applies the divorce procedure (and remedies) insofar as they are applicable to separate support actions.

**47. M.G.L. c. 209A Abuse Prevention**

- **§ 3. Remedies; period of relief**
- **§ 7. Abuse prevention orders; domestic violence record search; service of order; enforcement; violations**

**48. M.G.L. c. 209B. Massachusetts Child Custody Jurisdiction Act**

- **§ 7. Jurisdiction; determination of appropriate forum; factors**
- **§ 12. Custody judgment of foreign state; filing within state; enforcement of judgment within state; expenses**

**49. M.G.L. c. 209C**

In *Doe v. Roe*, the Court read [G.L. c. 209C, § 1](#), which explicitly states that illegitimate children are to be treated equally, as permitting judges the same discretion to award attorney's fees in actions seeking support for illegitimate children as is permitted under [G.L. c. 208, § 38](#), even though not expressly mentioned in the statute. *Doe v. Roe*, 32 Mass. App. Ct. 63, 69 (1992). Although the statute does not specifically provide for fees in these cases, it would be discriminatory to allow them in cases involving children of a marriage and not for cases involving children born out of wedlock. See also, *A.B. v. C.D.*, 44 Mass.App.Ct. 331, 690 N.E.2d 839 (1998).

**50. M.G.L. c. 209D Uniform Interstate Family Support Act**

- **§ 3-313. Costs and fees**

**51. M.G.L. c. 215 Probate Courts**

- **§ 34A. Contempt; support or custody orders; costs; service; attorney's fees; interest; IV-D agency; arrest warrants**

In entering a judgment of contempt for failure to comply with an order or judgment for monetary payment, there shall be a presumption that the plaintiff is entitled to receive from the defendant, in addition to the judgment on monetary arrears, all of his reasonable attorney's fees and expenses relating to the attempted resolution, initiation and prosecution of the complaint for contempt. The contempt judgment so entered shall include reasonable attorney's fees and expenses unless the probate judge enters specific findings that such attorney's fee and expenses shall not be paid by the defendant. See also, c. 215, § 45.

**52. M.G.L. c. 231**

- **§ 6F Costs, expenses and interest for insubstantial, frivolous or bad faith claims or defenses (see statutes of General Applicability, supra).**

## Housing & Mortgage/Foreclosure Defense

**53. M.G.L. c. 93A**

- **§9 (see listing under General Applicability & Consumer)**

**54. M.G.L. c. 140 Massachusetts Mobile Home Statute**

- **§ 32N Reprisals for report of violations**

Any manufactured housing community licensee or his agent who threatens to or takes reprisals against any manufactured housing community resident or group of residents for reporting a violation or suspected violation of [this statute] or any applicable building or health code to [a list of government entities] shall be liable for damages which shall not be less than one month's rent or more than five months' rent, or the actual damages sustained by the manufactured housing community resident or group of residents, whichever is greater, and the costs of the court action brought for said damages including reasonable attorney's fees.

**55. M.G.L. c. 140**

- **§ 90D Loans in violation of Sec. 90A; discharge; jurisdiction**

Provides for attorney's fees for successful parties in challenge to home mortgages\*\* that charge fees or interest in excess of those permitted under c. 140 Sec. 90A.

\*\* § 90A's limits on interest and fees does not apply "to a loan secured by a first mortgage on real estate."

**56. M.G.L. c. 140D**

- **§ 10 and § 32 – Truth in Lending Act (TILA) and Consumer Credit Reporting Act (CCRA). See "General/Consumer," above.**

§ 32 provides for attorneys' fees for violations of §10, or any rules or regulations promulgated thereunder.

**57. M.G.L. c. 151B Unlawful Discrimination Because of Race, Color, Religious Creed, National Origin, Ancestry or Sex**

- **§ 9. Construction and enforcement of chapter; inconsistent laws; exclusiveness of statutory procedure; civil remedies; speedy trial; attorney's fees and costs; damages**

If the court finds for the petitioner it shall, in addition to any other relief and irrespective of the amount in controversy, award the petitioner reasonable **attorney's fees** and costs unless special circumstances would render such an award unjust.

**58. M.G.L. c. 183 Alienation of Land**

- **§ 28C Refinancing in the borrower's interest**

**59. M.G.L. c. 183**

- **§ 64. Discrimination in residential mortgage loans on basis of location of property**

**60. M.G.L. c. 183C Predatory Home Loan Practices**

- **§ 18 Relief and Remedies**

Any violation of this chapter is also a violation of c. 93A, entitling prevailing plaintiff to award of attorney's fees.

**61. M.G.L. c. 186 Estates for Years and at Will**

- **§ 14. Wrongful acts of landlord; premises used for dwelling or residential purposes; utilities, services, quiet enjoyment; penalties; remedies; waiver**

**62. M.G.L. c. 186**

- **§ 15B. Entrance of premises prior to termination of lease; payments; receipts; interest; records; security deposits**

**63. M.G.L. c. 186 Estates for Years and at Will**

- **§ 15F. Residential leases or rental agreements restricting litigation or landlord liability; ouster of tenant; remedies**

**64. M.G.L. c. 186**

- **§ 18. Reprisal for reporting violations of law or for tenant's union activity; damages and costs; notice of termination, presumption; waiver in leases or other rental agreements prohibited**

**65. M.G.L. c. 186**

- **§ 20. Attorneys' fees and expenses; residential lease provisions; implied covenant; waiver**

Provides that wherever landlord lease provides for attorney's fees incurred as result of tenant's breach of lease, reciprocal provision will be implied if the tenant incurs fees as result of landlord breach. However, because statute refers to "attorney's fees and expenses incurred," it has been interpreted to not provide for an attorney's fee award for tenant represented by legal services. *Colonial Estates Associates v. Montagna*, 18 Mass.App.Ct. 972 (1984), review denied 393 Mass. 1105. Court distinguishes between the contractual right for fees incurred, and where fees are authorized by statute.

However, where the tenant will be responsible to pay under a contingency or other fee agreement, then the costs are "incurred" even if not yet paid. *Northern Associates Inc. v. Kiley*, 57 Mass.App.Ct. 547 (2003).

## Probate

### **66. M.G.L. c. 215. Estates and Trusts**

#### **§ 45. Costs**

In contested cases before a probate court or before the supreme judicial court on appeal, costs and expenses in the discretion of the court may be awarded to either party, to be paid by the other, or may be awarded to either or both parties to be paid out of the estate which is the subject of the controversy, as justice and equity may require. In the exercise of judicial discretion, there is no requirement of a finding of "bad faith" or wrongful litigation conduct. *In Re: Estate of King*, 455 Mass. 796 (2010).