





1 misappropriated items used in the business operations of the person alleged  
2 to have violated G.S. 75-48.1(a).

3 (7) Stolen or misappropriated information technology. – Hardware or software  
4 that a person acquired, appropriated, or used without the authorization of the  
5 owner of the information technology or the owner's authorized licensee in  
6 violation of applicable law. However, the term does not include situations in  
7 which the hardware or software alleged to have been stolen or  
8 misappropriated was not available for retail purchase on a standalone basis  
9 at or before the time it was acquired, appropriated, or used by that person.  
10 For purposes of this definition, information technology is used in a person's  
11 business operations if the person uses such technology in the manufacture,  
12 distribution, marketing, or sales of the articles or products subject to  
13 G.S. 75-48.1(a).

14 **"§ 75-48.1. Manufacturing while using stolen or misappropriated information technology**  
15 **an unfair act; relation to other laws.**

16 (a) Unfair Act. – Any person who manufactures any article or product while using  
17 stolen or misappropriated information technology in its business operations after notice and  
18 opportunity to cure as provided in G.S. 75-48.2 and, with respect to remedies sought under  
19 G.S. 75-48.3(f) or G.S. 75-48.5, causes a material competitive injury as a result of such use of  
20 stolen or misappropriated information technology shall be deemed to engage in an unfair act  
21 where such article or product is sold or offered for sale in this State, either separately or as a  
22 component of another article or product, and in competition with an article or product sold or  
23 offered for sale in this State that was manufactured without violating this subsection. Any  
24 person who engages in such unfair act, and any articles or products manufactured by such  
25 person in violation of this subsection, shall be subject to the liabilities and remedial provisions  
26 of this Article in an action by the Attorney General or any injured person described in  
27 G.S. 75-48.3(e), except as provided in subsection (b) of this section and G.S. 75-48.2, 75-48.3,  
28 75-48.4, 75-48.5, and 75-48.6.

29 (b) Exceptions. – No action may be brought under this Article, and no liability shall  
30 result, if any of the following are true:

31 (1) The end article or end product sold or offered for sale in this State and  
32 alleged to violate subsection (a) of this section is any of the following:

33 a. A copyrightable end product.

34 b. Merchandise manufactured by or on behalf of, or pursuant to a  
35 license from, a copyright owner and which displays or embodies a  
36 name, character, artwork, or other indicia of or from a work that falls  
37 within sub-subdivision a. of this subdivision or merchandise  
38 manufactured by or on behalf of, or pursuant to a license from, a  
39 copyright or trademark owner and which displays or embodies a  
40 name, character, artwork, or other indicia of or from a theme park,  
41 theme park attraction, or other facility associated with a theme park.

42 c. Packaging, carrier media, or promotional or advertising materials for  
43 any end article, end product, or merchandise that falls within sub-  
44 subdivision a. or b. of this subdivision.

45 (2) The allegation that a particular technology constitutes stolen or  
46 misappropriated information technology is based on either of the following:

47 a. A claim that the information technology or its use infringes a patent  
48 or misappropriates a trade secret under applicable law or that could  
49 be brought under any provision of Title 35 of the United States Code.

50 b. A claim that the defendant's use of the information technology  
51 violates the terms of a license that allows users to modify and

1 redistribute any source code associated with the technology free of  
2 charge.

- 3 (3) The allegation is based on a claim that the person violated subsection (a) of  
4 this section by aiding, abetting, facilitating, or assisting someone else to  
5 acquire, appropriate, use, sell, or offer to sell, or by providing someone else  
6 with access to, information technology without authorization of the owner of  
7 such information technology or the owner's authorized licensee in violation  
8 of applicable law.

9 **"§ 75-48.2. Notice and opportunity to cure required prior to filing of action.**

10 (a) Notice and Opportunity to Cure Required. – No action may be brought under  
11 G.S. 75-48.1(a) unless the person subject to G.S. 75-48.1(a) received written notice of the  
12 alleged use of the stolen or misappropriated information technology from the owner or  
13 exclusive licensee of the information technology or the owner's agent and the person did one of  
14 the following:

- 15 (1) Failed to establish that its use of the information technology in question did  
16 not violate G.S. 75-48.1(a).  
17 (2) Failed, within 90 days after receiving such notice, to cease use of the owner's  
18 stolen or misappropriated information technology; provided, however, that if  
19 the person commences and thereafter proceeds diligently to replace such  
20 information technology with information technology whose use would not  
21 violate G.S. 75-48.1(a), such period shall be extended for an additional  
22 period of 90 days, not to exceed 180 days total.

23 (b) Contents of Notice. – To satisfy the requirements of this section, a written notice  
24 must, under penalty of perjury, do all of the following:

- 25 (1) Identify the stolen or misappropriated information technology.  
26 (2) Identify the lawful owner or exclusive licensee of the information  
27 technology.  
28 (3) Identify the applicable law the person is alleged to be violating and state that  
29 the notifier has a reasonable belief that the person has acquired,  
30 appropriated, or used the information technology in question without  
31 authorization of the lawful owner or the owner's authorized licensee in  
32 violation of the applicable law.  
33 (4) To the extent known, state the manner in which such information technology  
34 is being used by the defendant.  
35 (5) State the articles or products to which such information technology relates.  
36 (6) Specify the basis and the particular evidence upon which the notifier bases  
37 such allegation.

38 (c) Certification Requirement. – The written notification shall state, under penalty of  
39 perjury, that, after a reasonable and good-faith investigation, the information in the notice is  
40 accurate based on the notifier's reasonable knowledge, information, and belief.

41 (d) The information technology owner or its agent may extend any period described in  
42 this section.

43 **"§ 75-48.3. Filing of action; remedies; attorneys' fees; affirmative defense.**

44 (a) Filing of Action. – No earlier than 90 days after the provision of notice in  
45 accordance with G.S. 75-48.2, the Attorney General in the name of the State, or any person  
46 described in subsection (e) of this section, may bring an action against any person who is  
47 subject to G.S. 75-48.1(a).

48 (b) Remedies. – In any suit instituted pursuant to subsection (a) of this section, in which  
49 the defendant is found by the court to have violated G.S. 75-48.1(a), the court may do any or all  
50 of the following:

- 1           (1)   Enjoin violations of G.S. 75-48.1(a), including by enjoining the defendant  
2           from selling or offering to sell in this State articles or products that are  
3           subject to G.S. 75-48.1(a), except as provided in subsection (f) of this  
4           section; provided that no such injunction shall encompass articles or  
5           products to be provided to a third party that establishes that such third party  
6           has satisfied one or more of the affirmative defenses set forth in  
7           G.S. 75-48.6(a) with respect to the manufacturer alleged to have violated  
8           G.S. 75-48.1(a).
- 9           (2)   Award actual direct or statutory damages to the plaintiff in an amount equal  
10          to the greater of the following:
- 11          a.    Actual direct damages, which may be imposed only against the  
12          person who G.S. 75-48.1(a).
- 13          b.    Statutory damages of no more than the retail price of the stolen or  
14          misappropriated technology, which may be imposed only against the  
15          person who violated G.S. 75-48.1(a).
- 16          (3)   Award enhanced damages to the plaintiff in an amount equal to up to treble  
17          the amount of damages authorized under subdivision (2) of this subsection  
18          where the court finds that the defendant's use of the stolen or  
19          misappropriated information technology was willful. Enhanced damages  
20          under this subdivision shall be imposed only against the person found to  
21          have violated G.S. 75-48.1(a).
- 22          (4)   In the event the person alleged to have violated G.S. 75-48.1(a) has been  
23          subject to a final judgment or has entered into a final settlement, or any  
24          products manufactured by such person and alleged to violate G.S. 75-48.1(a)  
25          have been the subject of an injunction or attachment order, in any federal or  
26          state court in this State or any other state, arising out of the same theft or  
27          misappropriation of information technology, the court shall dismiss the  
28          action with prejudice. If such person is a defendant in an ongoing action, or  
29          any products manufactured by such person and alleged to violate  
30          G.S. 75-48.1(a) are the subject of an ongoing injunction or attachment order,  
31          in any federal or state court in this State or any other state, arising out of the  
32          same theft or misappropriation of information technology, the court shall  
33          stay the action against such person pending resolution of the other action. In  
34          the event the other action results in a final judgment or final settlement, the  
35          court shall dismiss the action with prejudice against the person. Dismissals  
36          under this section shall be res judicata to actions filed against the person  
37          alleged to have violated G.S. 75-48.1(a) arising out of the same theft or  
38          misappropriation of information technology.
- 39          (c)   Damages Against a Third Party. –
- 40          (1)   After determination by the court that a person has violated G.S. 75-48.1(a)  
41          and entry of a judgment against the person for violating G.S. 75-48.1(a), the  
42          Attorney General, or a person described in subsection (e) of this section,  
43          may add to the action a claim for actual direct damages against a third party  
44          who sells or offers to sell in this State products made by that person in  
45          violation of G.S. 75-48.1(a), subject to the provisions of G.S. 75-48.6;  
46          provided, however, that damages may be imposed against a third party only  
47          if all of the following are true:
- 48          a.    The third party's agent for service of process properly was served  
49          with a written notice sent to the person alleged to have violated  
50          G.S. 75-48.1(a) that satisfies the requirements of G.S. 75-48.2 at least  
51          90 days prior to the entry of the judgment.

- 1            b. The person who violated G.S. 75-48.1(a) did not make an appearance  
2            or does not have sufficient attachable assets to satisfy a judgment  
3            against the person.
- 4            c. Such person either manufactured the final product or produced a  
5            component equal to thirty percent (30%) or more of the value of the  
6            final product.
- 7            d. Such person has a direct contractual relationship with the third party  
8            respecting the manufacture of such final product or component.
- 9            e. The third party has not been subject to a final judgment or entered  
10           into a final settlement in any federal or state court in this State or any  
11           other state arising out of the same theft or misappropriation of  
12           information technology; provided, however, that in the event the  
13           third party is a party to an ongoing suit for damages, or has entered  
14           an appearance as an interested third party in proceedings in rem, in  
15           any federal or state court in this State or any other state arising out of  
16           the same theft or misappropriation of information technology, the  
17           court shall stay the action against the third party pending resolution  
18           of the other action. In the event the other action results in a final  
19           judgment, the court shall dismiss the action with prejudice against  
20           the third party and dismiss any in rem action as to any articles or  
21           products manufactured for such third party or that have been or are to  
22           be supplied to such third party. Dismissals under this section shall be  
23           res judicata to actions filed against the person alleged to have  
24           violated G.S. 75-48.1(a) arising out of the same theft or  
25           misappropriation of information technology.
- 26           (2) An award of damages against such third party pursuant to subdivision (c)(1)  
27           of this section shall be the lesser of the retail price of the stolen or  
28           misappropriated information technology at issue or two hundred fifty  
29           thousand dollars (\$250,000.00), less any amounts recovered from the person  
30           adjudicated to have violated G.S. 75-48.1(a), and subdivision (b)(3) of this  
31           section shall not apply to such award or recovery against such third party.
- 32           (d) Attorneys' Fees. – In an action under this Article, the court may also do any or all of  
33           the following:
- 34           (1) With respect to an award under subsection (b) of this section only, award  
35           costs and reasonable attorneys' fees to (i) a prevailing plaintiff in any action  
36           filed by an injured person under G.S. 75-48.1(a) or (ii) a prevailing  
37           defendant in actions brought by an allegedly injured person.
- 38           (2) With respect to an action under subsection (c) of this section brought by a  
39           private plaintiff only, award costs and reasonable attorneys' fees to a third  
40           party for all litigation expenses (including, without limitation, discovery  
41           expenses) incurred by that party if it prevails on the requirement set forth in  
42           sub-subdivision (c)(1)c. of this section or who qualifies for an affirmative  
43           defense under G.S. 75-48.6; provided, however, in a case in which the third  
44           party received a copy of the notification described in sub-subdivision  
45           (c)(1)a. of this section at least 90 days before the filing of the action under  
46           subsection (c) of this section, that with respect to a third party's reliance on  
47           the affirmative defenses set forth in G.S. 75-48.6(a)(3) and  
48           G.S. 75-48.6(a)(4), the court may award costs and reasonable attorneys' fees  
49           only if all of the conduct on which the affirmative defense is based was

1 undertaken by the third party, and the third party notified the plaintiff of  
2 such conduct, prior to the end of such 90-day period.

3 (e) Injured Persons Defined. – A person shall be deemed to have been injured by the  
4 sale or offer for sale of a directly competing article or product subject to G.S. 75-48.1(a) if the  
5 person establishes by a preponderance of the evidence that all of the following are true:

6 (1) The person manufactures articles or products that are sold or offered for sale  
7 in this State in direct competition with articles or products that are subject to  
8 G.S. 75-48.1(a).

9 (2) The person's articles or products were not manufactured using stolen or  
10 misappropriated information technology of the owner of the information  
11 technology.

12 (3) The person suffered economic harm, which may be shown by evidence that  
13 the retail price of the stolen or misappropriated information technology was  
14 twenty thousand dollars (\$20,000) or more.

15 (4) If the person is proceeding in rem or seeks injunctive relief, the person suffered  
16 material competitive injury as a result of the violation of G.S. 75-48.1(a).

17 (f) Enforcement of Injunctive Relief. –

18 (1) If the court determines that a person found to have violated G.S. 75-48.1(a)  
19 lacks sufficient attachable assets in this State to satisfy a judgment rendered  
20 against it, the court may enjoin the sale or offering for sale in this State of  
21 any articles or products subject to G.S. 75-48.1(a), except as provided in  
22 G.S. 75-48.4.

23 (2) To the extent that an article or product subject to G.S. 75-48.1(a) is an  
24 essential component of a third party's article or product, the court shall deny  
25 injunctive relief as to such essential component, provided that the third party  
26 has undertaken good-faith efforts within the third party's rights under its  
27 applicable contract with such manufacturer to direct the manufacturer of the  
28 essential component to cease the theft or misappropriation of information  
29 technology in violation of G.S. 75-48.1(a), which may be satisfied, without  
30 limitation, by the third party issuing a written directive to the manufacturer  
31 demanding that it cease such theft or misappropriation and demanding that  
32 the manufacturer provide the third party with copies of invoices, purchase  
33 orders, licenses, or other verification of lawful use of the information  
34 technology at issue.

35 (g) The court shall determine whether a cure period longer than the period reflected in  
36 G.S. 75-48.2 would be reasonable given the nature of the use of the information technology that  
37 is the subject of the action and the time reasonably necessary either to bring such use into  
38 compliance with applicable law or to replace the information technology with information  
39 technology that would not violate G.S. 75-48.1(a). If the court deems that a longer cure period  
40 would be reasonable, then the action shall be stayed until the end of that longer cure period. If  
41 by the end of that longer cure period, the defendant has established that its use of the  
42 information technology in question did not violate G.S. 75-48.1(a), or the defendant ceased use  
43 of the stolen or misappropriated information technology, then the action shall be dismissed.

44 **§ 75-48.4. Claims against third-party articles or products.**

45 No injunction may issue against a person other than the person adjudicated to have violated  
46 G.S. 75-48.1(a), and no attachment order may issue against articles or products other than  
47 articles or products in which the person alleged to violate G.S. 75-48.1(a) holds title. A person  
48 other than the person alleged to violate G.S. 75-48.1(a) includes any person other than the  
49 actual manufacturer who contracts with or otherwise engages another person to develop,  
50 manufacture, produce, market, distribute, advertise, or assemble an article or product alleged to  
51 violate G.S. 75-48.1(a).

**"§ 75-48.5. In rem jurisdiction.**

(a) In a case in which the court is unable to obtain personal jurisdiction over a person subject to G.S. 75-48.1(a), the court may proceed in rem against any articles or products subject to G.S. 75-48.1(a) sold or offered for sale in this State in which the person alleged to have violated G.S. 75-48.1(a) holds title. Except as provided in G.S. 75-48.4 and subsections (b) through (d) of this section, all such articles or products shall be subject to attachment at or after the time of filing a complaint, regardless of the availability or amount of any monetary judgment.

(b) At least 90 days prior to the enforcement of an attachment order against articles or products pursuant to subsection (a) of this section, the court shall notify any person in possession of such articles or products of the pending attachment order. Prior to the expiration of such 90-day period, any person for whom the articles or products were manufactured, or to whom such articles or products have been or are to be supplied, pursuant to an existing contract or purchase order, may do either of the following:

(1) Establish that the person has satisfied one or more of the affirmative defenses set forth in G.S. 75-48.6(a) with respect to the manufacturer alleged to have violated G.S. 75-48.1(a), in which case the attachment order shall be dissolved only with respect to those articles or products that were manufactured for such person, or have been or are to be supplied to such person, pursuant to an existing contract or purchase order.

(2) Post a bond with the court equal to the retail price of the allegedly stolen or misappropriated information technology or twenty-five thousand dollars (\$25,000), whichever is less, in which case the court shall stay enforcement of the attachment order against such articles or products and shall proceed on the basis of its jurisdiction over the bond. The person posting the bond shall recover the full amount of such bond, plus interest, after the issuance of a final judgment.

(c) In the event the person posting the bond pursuant to subdivision (b)(2) of this section is entitled to claim an affirmative defense in G.S. 75-48.6, and that person establishes with the court that it is entitled to any such affirmative defense, the court shall award costs and reasonable attorneys' fees to the person posting the bond and against the plaintiff in the event the plaintiff proceeds with an action pursuant to G.S. 75-48.3(c) against the person posting the bond.

(d) In the event that the court does not provide notification as described in subsection (b) of this section, the court, upon motion of any third party, shall stay the enforcement of the attachment order for 90 days as to articles or products manufactured for such third party, or that have been or are to be supplied to such third party, pursuant to an existing contract or purchase order, during which 90-day period the third party may avail itself of the options set forth in subdivision (b)(1) and (b)(2) of this section.

**"§ 75-48.6. Affirmative defenses for third parties.**

(a) A court may not award damages against a third party pursuant to G.S. 75-48.3(c) where that party, after having been afforded reasonable notice of at least 90 days by proper service upon such party's agent for service of process and opportunity to plead any of the affirmative defenses set forth below, establishes by a preponderance of the evidence that any of the following are true:

(1) The third party is the end consumer or end user of an article or product that is subject to G.S. 75-48.1(a), or acquired the article or product after its sale to an end consumer or end user.

(2) The person is a business with annual revenues that do not exceed fifty million dollars (\$50,000,000).

(3) The person acquired the articles or products:



- 1           a.     And had either (i) a code of conduct or other written document  
2                     governing the person's commercial relationships with the  
3                     manufacturer adjudicated to have violated G.S. 75-48.1(a) and which  
4                     includes commitments, such as general commitments to comply with  
5                     applicable laws, that prohibit use of the stolen or misappropriated  
6                     information technology by such manufacturer or (ii) written  
7                     assurances from the manufacturer of such articles or products that  
8                     such articles or products, to the manufacturer's reasonable  
9                     knowledge, were manufactured without the use of stolen or  
10                    misappropriated information technology in the manufacturer's  
11                    business operations. Provided, however, with respect to both (i) and  
12                    (ii) of this sub-subdivision, that within 180 days of receiving written  
13                    notice of the judgment against the manufacturer for violation of  
14                    G.S. 75-48.1(a) and a copy of a written notice that satisfies the  
15                    requirements of G.S. 75-48.2, the person undertakes commercially  
16                    reasonable efforts to do any of the following:
- 17                    1.     Exchange written correspondence confirming that such  
18                    manufacturer is not using such stolen or misappropriated  
19                    information technology in violation of G.S. 75-48.1(a), which  
20                    may be satisfied, without limitation, by obtaining written  
21                    assurances from the manufacturer accompanied by copies of  
22                    invoices, purchase orders, licenses, or other verification of  
23                    lawful use of the information technology at issue;
- 24                    2.     Direct the manufacturer to cease the theft or  
25                    misappropriation, which may be satisfied, without limitation,  
26                    by the third party issuing a written directive to the  
27                    manufacturer demanding that it cease such theft or  
28                    misappropriation and demanding that the manufacturer  
29                    provide the third party with copies of invoices, purchase  
30                    orders, licenses, or other verification of lawful use of the  
31                    information technology at issue; and for purposes of  
32                    clarification, the third party need take no additional action to  
33                    fully avail itself of this affirmative defense; or
- 34                    3.     In a case in which the manufacturer has failed to cease such  
35                    theft or misappropriation within such 180-day period, and the  
36                    third party has not fulfilled either sub-sub-subdivision 1. or 2.  
37                    of this sub-subdivision, cease the future acquisition of such  
38                    articles or products from the manufacturer during the period  
39                    that such manufacturer continues to engage in such theft or  
40                    misappropriation subject to G.S. 75-48.1(a) where doing so  
41                    would not constitute a breach of an agreement between the  
42                    person and such manufacturer for the manufacture of the  
43                    articles or products in question that was entered into on or  
44                    before 180 days after the effective date of this Article.
- 45            b.     Pursuant to an agreement between the person and a manufacturer for  
46                    the manufacture of the articles or products in question that was  
47                    entered into before 180 days after the effective date of this Article.  
48                    Provided, however, that within 180 days of receiving written notice  
49                    of the judgment against the manufacturer for violation of  
50                    G.S. 75-48.1(a) and a copy of a written notice that satisfies the

1 requirements of G.S. 75-48.2, the person undertakes commercially  
2 reasonable efforts to do any of the following:

- 3 1. Obtain from such manufacturer written assurances that such  
4 manufacturer is not using such stolen or misappropriated  
5 information technology in violation of G.S. 75-48.1(a), which  
6 may be satisfied, without limitation, by obtaining written  
7 assurances from the manufacturer accompanied by copies of  
8 invoices, purchase orders, licenses, or other verification of  
9 lawful use of the information technology at issue.
- 10 2. Direct the manufacturer to cease such theft or  
11 misappropriation, which may be satisfied, without limitation,  
12 by the third party issuing a written directive to the  
13 manufacturer demanding that it cease such theft or  
14 misappropriation and demanding that the manufacturer  
15 provide the third party with copies of invoices, purchase  
16 orders, licenses, or other verification of lawful use of the  
17 information technology at issue; and for purposes of  
18 clarification, the third party need take no additional action to  
19 fully avail itself of this affirmative defense.
- 20 3. In a case in which the manufacturer has failed to cease such  
21 theft or misappropriation within such 180-day period, and the  
22 third party has not fulfilled either sub-sub-subdivision 1. or 2.  
23 of this sub-subdivision, cease the future acquisition of such  
24 articles or products from such manufacturer during the period  
25 that such manufacturer continues to engage in such theft or  
26 misappropriation subject to G.S. 75-48.1(a) where doing so  
27 would not constitute a breach of such agreement.

28 (4) The person has made commercially reasonable efforts to implement  
29 practices and procedures to require its direct manufacturers, in  
30 manufacturing articles or products for such person, not to use stolen or  
31 misappropriated information technology in violation of G.S. 75-48.1(a). A  
32 person may satisfy this subdivision by doing any of the following:

- 33 a. Adopting and undertaking commercially reasonable efforts to  
34 implement a code of conduct or similar written requirements, which  
35 are applicable to the person's direct manufacturers, that prohibit use  
36 of stolen or misappropriated information technology by such  
37 manufacturer, subject to a right of audit, and such person either (i)  
38 has a practice of auditing its direct manufacturers on a periodic basis  
39 in accordance with generally accepted industry standards or (ii)  
40 requires in its agreements with its direct manufacturers that they  
41 submit to audits by a third party, which may include a third-party  
42 association of businesses representing the owner of the stolen or  
43 misappropriated intellectual property, and further provides that a  
44 failure to remedy any deficiencies found in such audit that constitute  
45 a violation of the applicable law of the jurisdiction where the  
46 deficiency occurred shall constitute a breach of the contract, subject  
47 to cure within a reasonable period of time.
- 48 b. Adopting and undertaking commercially reasonable efforts to  
49 implement a code of conduct or similar written requirements, which  
50 are applicable to the person's direct manufacturers, that prohibit use  
51 of stolen or misappropriated information technology by such

1 manufacturer, and the person undertakes practices and procedures to  
2 address compliance with the prohibition against the use of the stolen  
3 or misappropriated information technology in accordance with the  
4 applicable code of conduct or written requirements.

5 (5) The person does not have a contractual relationship with the person alleged  
6 to have violated G.S. 75-48.1(a) respecting the manufacture of the articles or  
7 products alleged to have been manufactured in violation of G.S. 75-48.1(a).

8 (b) A third party shall have the opportunity to be heard regarding whether an article or  
9 product is an essential component provided or to be provided to such third party and shall have  
10 the right to file a motion to dismiss any action brought against it under G.S. 75-48.3(c).

11 (c) The court shall not enforce any award for damages against such third party until  
12 after the court has ruled on that party's claim of eligibility for any of the affirmative defenses  
13 set out in subsection (a) of this section, and prior to such ruling may allow discovery, in an  
14 action under G.S. 75-48.3(c), only on the particular defenses raised by the third party.

15 (d) The court shall allow discovery against a third party on an issue only after all  
16 discovery on that issue between the parties has been completed and only if the evidence  
17 produced as a result of such discovery does not resolve an issue of material dispute between the  
18 parties.

19 (e) Any confidential or otherwise sensitive information submitted by a party pursuant to  
20 this section shall be subject to a protective order.

21 **"§ 75-48.7. Other laws not applicable.**

22 G.S. 75-1 to G.S. 75-16.2 do not apply to this Article. The remedies provided under this  
23 Article are the exclusive remedies for the parties.

24 **"§ 75-48.8. Severability.**

25 If any subsection, clause, sentence, paragraph, or part of this Article shall be adjudged by  
26 any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or  
27 invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence,  
28 paragraph, section, or part thereof directly involved in the controversy in which the judgment  
29 shall have been rendered."

30 **SECTION 2.** This act becomes effective 90 days after it becomes law, except that  
31 no award of damages against a third party pursuant to G.S. 75-48.3(c), as enacted by this act,  
32 shall be enforced until 18 months have elapsed from the date this act becomes law.