

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 866
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40347-MR-97A

Short Title: Clarify Priority Status of Certain Liens. (Public)

Sponsors: Representatives Howard, Carney, Grange, and Ross (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE PRIORITY STATUS OF A LIEN HELD BY THE NORTH
3 CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES
4 AND TO CLARIFY THE LIEN PRIORITY OF THE TEACHERS' AND STATE
5 EMPLOYEES' RETIREMENT SYSTEM AS IT PERTAINS TO CHARTER SCHOOL
6 PAYMENT PLANS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 135-48.37(e) reads as rewritten:

9 "(e) The priority of any lien held by the State Health Plan for Teachers and State
10 Employees shall be superior to all nongovernmental medical liens and rights, whether ~~such those~~
11 medical liens and rights are prior or subsequent to the lien."

12 **SECTION 2.** G.S. 44-49(a) reads as rewritten:

13 "(a) From and after March 26, 1935, there is hereby created a lien upon any sums
14 recovered as damages for personal injury in any civil action in this State. This lien is in favor of
15 any person, corporation, State entity, municipal corporation or county to whom the person so
16 recovering, or the person in whose behalf the recovery has been made, may be indebted for any
17 drugs, medical supplies, ambulance services, services rendered by any physician, dentist, nurse,
18 or hospital, or hospital attention or services rendered in connection with the injury in
19 compensation for which the damages have been recovered. Where damages are recovered for
20 and in behalf of minors or persons non compos mentis, the liens shall attach to the sum recovered
21 as fully as if the person were sui juris. The priority of a lien held by the State Health Plan for
22 Teachers and State Employees shall be superior to all nongovernmental medical liens and rights,
23 whether ~~such those~~ medical liens and rights are prior or subsequent to the lien."

24 **SECTION 3.** G.S. 44-50 reads as rewritten:

25 "**§ 44-50. Receiving person charged with duty of retaining funds for purpose stated;
26 evidence; attorney's fees; charges.**

27 A lien as provided under G.S. 44-49 shall also attach upon all funds paid to any person in
28 compensation for or settlement of the injuries, whether in litigation or otherwise. If an attorney
29 represents the injured person, the lien is perfected as provided under G.S. 44-49. Before their
30 disbursement, any person that receives those funds shall retain out of any recovery or any
31 compensation so received a sufficient amount to pay the just and bona fide claims for any drugs,
32 medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or
33 hospital, or hospital attention or services, after having received notice of those claims. Evidence
34 as to the amount of the charges shall be competent in the trial of the action. Subject to
35 G.S. 135-48.37, the priority of a lien held by the State Health Plan for Teachers and State
36 Employees shall be superior to all nongovernmental medical liens and rights, whether ~~such those~~



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1 medical liens and rights are prior or subsequent to the lien. Nothing in this section or in
2 G.S. 44-49 shall be construed so as to interfere with any amount due for attorney's services. The
3 lien provided for shall in no case, exclusive of attorneys' fees, exceed fifty percent (50%) of the
4 amount of damages recovered. Except as provided in G.S. 44-51, a client's instructions for the
5 disbursement of settlement or judgment proceeds are not binding on the disbursing attorney to
6 the extent that the instructions conflict with the requirements of this Article."

7 **SECTION 4.** Section 3(b) of Session Law 2018-84 reads as rewritten:

8 "**SECTION 3.(b)** This section is effective when it becomes law and applies to charter
9 schools electing to cease participation in the Teachers' and State Employees' Retirement System
10 on or after that date. Priority of the lien over nongovernmental liens and rights, created under
11 subsection (a) of this section, shall apply only to nongovernmental liens and rights that have
12 attached to the applicable property on or after the effective date of this section. This section
13 expires June 14, 2023. Any charter school entering a withdrawal liability payment plan before
14 June 14, 2023, shall have the full three years to complete the payment plan and the lien priority
15 shall apply during the entire period of the payment plan."

16 **SECTION 5.** This act is effective when it becomes law.