

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 866

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

Sponsors: Representatives Howard, Beasley, Grange, and Ross (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

April 22, 2019

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



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

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

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

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