

NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 1085
SENATE BILL 397

1 AN ACT TO AMEND PART 3 OF ARTICLE 3 OF CHAPTER 108 OF THE GENERAL
2 STATUTES TO CREATE A LIEN ON REAL PROPERTY OF RECIPIENTS OF AID TO
3 THE PERMANENTLY AND TOTALLY DISABLED.
4

5 The General Assembly of North Carolina do enact:
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7 **Section 1.** Part 3 of Article 3 of Chapter 108 of the General Statutes is hereby
8 amended by adding three new Sections immediately following G.S. 108-73.12, to be numbered
9 G.S. 108-73.12.1, G.S. 108-73.12.2, G.S. 108-73.12.3, and to read as follows:

10 **"G.S. 108-73.12.1. Lien on Real Property.** There is hereby created a general lien, enforceable
11 as hereinafter provided, upon the real property of any person who is receiving or who has
12 received aid to the permanently and totally disabled, to the extent of the total amount of such
13 assistance paid to such recipient from and after October 1, 1963. Before any application for aid
14 to the permanently and totally disabled is approved under the provisions of this Article, the
15 applicant shall agree that all such assistance paid to him shall constitute a claim against him and
16 against his estate, enforceable according to law by any county paying all or part of such
17 assistance. Such agreement may be contained in the application signed by the applicant.
18 Immediately after the approval of an aid to the permanently and totally disabled grant, a
19 statement showing the name of the recipient and the date of approval of the application shall be
20 filed in the office of the Clerk of the Superior Court in the county of residence of the recipient
21 and in each county in which such recipient then owns or later acquires real property. The
22 statement shall be filed in the regular lien docket, showing the name of the county filing said
23 statement as claimant, or lienor, and the name of the recipient as owner, or lienee, and same
24 shall be indexed in the name of the lienee in the defendants', or reverse alphabetical, side of the
25 cross-index to civil judgments; in said index the county shall appear as plaintiff, or lienor; no
26 cross-index in the name of the county, or lienor, shall be required. From the time of filing, such
27 statement shall be and constitute due notice of a lien against the real property then owned or
28 thereafter acquired by the recipient and lying in such county to the extent of the total amount of
29 aid to the permanently and totally disabled paid to such recipient from and after October 1,
30 1963. The lien thus established shall take priority over all other liens subsequently acquired and
31 shall continue from the date of filing until satisfied: Provided, that no action to enforce such
32 lien may be brought more than ten (10) years from the last day for which assistance is paid nor
33 more than three (3) years after the death of any recipient and the failure to bring such action
34 within said time shall be a complete bar against any recovery and shall extinguish the lien:
35 Provided further, that no execution in enforcement of the lien shall be levied upon any real
36 property, so long as such property is occupied as a homesite by the surviving spouse or by any
37 minor dependent child of such recipient, or as a homesite by the recipient, or a dependent adult
38 child of such recipient who is incapable of self-support because of total mental or physical
39 disability: Provided, further, that the board of county commissioners and the county board of
40 public welfare of the county in which the recipient resides, acting jointly and after
41 investigation, shall have the authority to subordinate any lien created by this Section to a
42 mortgage or lien created against the property of such recipient for the necessary repairs or

1 improvements on said property, whether title to said property is held by the recipient alone or
2 by the entirety with his or her spouse.

3 "The State Board of Public Welfare shall furnish to the county director of public welfare
4 forms to be used which shall contain such information as is required to carry out the provisions
5 of this Section and such other information as may be prescribed by the said Board.

6 "Each county department of public welfare shall notify all persons shown of record to be
7 recipients of aid to the permanently and totally disabled as of the date of notice that all aid to
8 the permanently and totally disabled grants paid from and after October 1, 1963, shall
9 constitute a lien against the real property and a claim against the estate of each recipient. The
10 notice may be given by letter mailed to the last known address of each recipient, but failure to
11 give such notice shall not affect the validity of the lien.

12 "Upon receipt of a statement signed by the director of public welfare, setting forth the total
13 amount of aid to the permanently and totally disabled paid to a recipient from and after October
14 1, 1963, the Clerk of the Superior Court may, after reasonable notice to the county attorney
15 within the same calendar month in which said statement was executed, accept payment of the
16 total sum set forth in said statement, tendered by said recipient or in his behalf, and cancel the
17 lien of record. The Clerk of the Superior Court shall, within the same calendar month, give the
18 director of public welfare notice of the receipt of such payment and of the cancellation of the
19 lien, and shall hold or disburse the funds so received as provided by law.

20 **"G.S. 108-73.12.2. Action to be Taken Upon Termination of Assistance.** The county
21 department of public welfare shall, within six (6) months after the termination of an aid to the
22 permanently and totally disabled grant by reason of death or otherwise, examine the case record
23 of such recipient, the tax records of the county, and, in case of termination because of death, the
24 records relating to executors, administrators, collectors, or other personal representatives. If it
25 appears from this examination or from any other information which has come to the attention
26 of the department, (i) that such recipient does not own, or has not owned since the date of the
27 filing of the aid to the permanently and totally disabled lien against such recipient's realty, any
28 real property, and (ii) that such recipient does not own nor his estate consist of any personal
29 property in excess of one hundred dollars (\$100.00), and (iii) in the case of termination because
30 of death, that no executor, administrator, collector or other personal representative has been
31 appointed, an entry shall be made in the case record reflecting the results of this examination. If
32 it appears from this examination, from a subsequent examination, or from any other
33 information which may come to the attention of the department, (i) that such recipient does
34 own, or has owned since the date of the filing of the aid to the permanently and totally disabled
35 lien against such recipient's realty, any real property, or (ii) that such recipient does own or his
36 estate consists of personal property of a value in excess of one hundred dollars (\$100.00), or
37 (iii) in case of termination by death, that an executor, administrator, collector, or other personal
38 representative has been appointed, then the department shall furnish to the county attorney all
39 available information concerning the property of the recipient, the name of the spouse of the
40 recipient, the township in which the recipient resides or resided, the race of the recipient, the
41 total amount of aid to the permanently and totally disabled received by the recipient from and
42 after October 1, 1963, by or through the State and the several counties thereof, and the reason
43 for termination of the aid to the permanently and totally disabled grant. Upon receipt of this
44 information, the county attorney shall take such steps as he may determine to be necessary to
45 enforce the claim or lien herein provided. If it be made to appear to the Clerk of the Superior
46 Court that the personal property of the estate of a deceased recipient of aid to the permanently
47 and totally disabled does not exceed one hundred dollars (\$100.00) in value, a personal
48 representative of such deceased recipient shall not be a necessary party to an action to enforce
49 the aid to the permanently and totally disabled lien against such recipient's realty. Any funds
50 remaining after satisfaction of such lien shall be paid into the office of the Clerk of the Superior
51 Court.

1 "The claim against the estate of a recipient herein provided for shall have equal priority in
2 order of payment with the sixth class under § 28-105 of the General Statutes: Provided, that no
3 such claim shall be satisfied out of any real property in which the recipient had any legal or
4 equitable interest so long as such property is occupied as a homesite by the recipient, the
5 surviving spouse, any minor dependent child of such recipient, or by a dependent adult child of
6 such recipient who is incapable of self-support because of total mental or physical disability.

7 "**G.S. 108-73.12.3. Funds Recovered.** The United States and the State of North Carolina shall
8 be entitled to share in any sum collected under the provisions of this Article, and their
9 proportionate parts of such sum shall be determined in accordance with the matching formulas
10 in use during the period for which assistance was paid to the recipient. The county enforcing
11 the claim as herein provided and any other county within the State which has paid aid to the
12 permanently and totally disabled to such recipient shall share proratably in any sum collected.
13 All sums collected shall be deposited in the county aid to the permanently and totally disabled
14 fund and a report of such deposit made to the State Board of Public Welfare. All sums to which
15 the United States or the State of North Carolina may become entitled under the provisions of
16 this Article shall be promptly paid or credited. All such sums to which the State may become
17 entitled shall be deposited in the State Aid to the Permanently and Totally Disabled Fund and
18 shall become a part of that fund.

19 "All necessary costs incurred in the collection of any claim shall be borne proratably by the
20 United States, the State, and the county in proportion to the share of the sum collected to which
21 each may be entitled: Provided, that neither the United States nor the State shall in any instance
22 be chargeable for cost in excess of the sum received by it from the claim. Necessary costs of
23 collection of any claim shall include all costs of services in the filing, processing, investigation,
24 and collection of such claim."

25 **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.

26 **Sec. 3.** This Act shall be in full force and effect from and after its ratification.

27 In the General Assembly read three times and ratified, this the 21st day of June,
28 1963.