

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

SESSION LAW 2001-377  
SENATE BILL 780

AN ACT TO CLARIFY THE METHOD BY WHICH PHYSICIANS' LIENS ARE PERFECTED AND THE DUTIES OF ATTORNEYS WITH RESPECT TO PHYSICIANS' LIENS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 44-49 reads as rewritten:

**"§ 44-49. Lien created; applicable to persons non sui juris.**

(a) From and after March 26, 1935, there is hereby created a lien upon any sums recovered as damages for personal injury in any civil action in this State, ~~the said State.~~ This lien is in favor of any person, corporation, municipal corporation or county to whom the person so recovering, or the person in whose behalf the recovery has been made, may be indebted for any drugs, medical supplies, ambulance services, and medical services rendered by any physician, dentist, trained nurse, or hospitalization, hospital, or hospital attention and/or services attention or services rendered in connection with the injury in compensation for which the said damages have been recovered. Where damages are recovered for and in behalf of minors or persons non compos mentis, such the liens shall attach to the sum recovered as fully as if the said person were sui juris.

(b) ~~Notwithstanding the provisions of paragraph one subsection (a) of this section, no lien therein provided for under subsection (a) of this section shall be is valid with respect to any claims whatsoever unless the person or corporation entitled to the lien therein provided for shall file a claim with the clerk of the court in which said civil action is instituted within 30 days after the institution of such action and further provided that the physician, dentist, trained nurse, hospital hospital, corporation, or such other person as has a lien hereunder shall, entitled to the lien furnishes, without charge to the attorney as a condition precedent to the creation of such the lien, furnish upon request to the attorney representing the person in whose behalf the claim for personal injury is made, an itemized statement, hospital record, or medical report for the use of such the attorney in the negotiation settlement negotiation, settlement, or trial of the claim arising by reason of the personal injury-injury, and a written notice to the attorney of the lien claimed.~~

~~No liens of the character provided for in the first paragraph of this section shall hereafter be valid with respect to money that may be recovered in any pending civil actions in this State unless claims based on such liens are filed with the clerk of the court in which the action is pending within 90 days after April 5, 1947.~~

(c) ~~No action shall lie against any clerk of court or any surety on any clerk's bond to recover any claims based upon any lien or liens created by the first paragraph under subsection (a) of this section when recovery has heretofore been had by the person injured, and no claims against such the recovery were filed with the clerk by any person or corporation, and the clerk has otherwise disbursed according to law the money recovered in such the action for personal injuries."~~

**SECTION 2.** G.S. 44-50 reads as rewritten:

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

~~Such a lien as provided for in~~ A lien as provided under G.S. 44-49 shall also attach upon all funds paid to any person in compensation for or settlement of the said injuries, whether in litigation or otherwise; and it shall be the duty of any person receiving the same before disbursement thereof to otherwise. If an attorney represents the injured person, the lien is perfected as provided under G.S. 44-49. Before their disbursement, any person that receives those funds shall retain out of any recovery or any compensation so received a sufficient amount to pay the just and bona fide claims for such any drugs, medical supplies, ambulance service and services, medical attention and/or services rendered by any physician, dentist, nurse, or hospital, or hospital service, attention or services, after having received and accepted notice thereof: Provided, that evidence of those claims. Evidence as to the amount of such the charges shall be competent in the trial of any such action: Provided, further, that nothing herein contained the action. Nothing in this section or in G.S. 44-49 shall be construed so as to interfere with any amount due for attorney's services: Provided, further, that the lien hereinbefore services. The lien provided for shall in no case, exclusive of attorneys' fees, exceed fifty percent (50%) of the amount of damages recovered. Except as provided in G.S. 44-51, a client's instructions for the disbursement of settlement or judgment proceeds are not binding on the disbursing attorney to the extent that the instructions conflict with the requirements of this Article."

**SECTION 3.** This act becomes effective October 1, 2001, and applies to liens perfected on or after that date.

In the General Assembly read three times and ratified this the 6<sup>th</sup> day of August, 2001.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 11:59 a.m. this 17<sup>th</sup> day of August, 2001