



HOUSE BILL 866: Clarify Priority Status of Certain Liens.

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 29, 2019
Introduced by:	Reps. Howard, Beasley, Grange, Ross	Prepared by:	Brad Krehely
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 866 clarifies the priority status of a lien held by the North Carolina State Health Plan for Teachers and State Employees (State Health Plan) and clarifies the lien priority of the Teachers' and State Employees' Retirement System (TSERS) as it pertains to charter school payment plans.*

CURRENT LAW AND BILL ANALYSIS:

Sections 1-3

Under current law, the priority of any lien held by the State Health Plan is superior to all non-governmental liens whether those liens are prior or subsequent to the lien.

Sections 1-3 of House Bill 866 provide that the priority of any lien held by the State Health Plan is superior to all nongovernmental *medical* liens and rights, whether those *medical* liens are prior or subsequent to the lien.

Section 4

Under G.S. 135-5.3(f), as amended by Section 3 of S.L. 2018-84, the board of directors of a charter school may cease participation in TSERS by following the statutory procedure. However, a charter school's withdrawal liability does not have to be paid in a lump sum if the amount is greater than \$2 million. In that case, the Board of Trustees of TSERS may allow the charter school to pay using an installment plan that meets the following criteria: (1) 50% of the withdrawal liability must be paid within 90 days of the complete withdrawal date and (2) the remaining 50% of the withdrawal liability must be made in no greater than 36 equal monthly payments.

The withdrawal of the charter school is the date the Board of Trustees approves the payment plan. TSERS has a lien on the real property of the charter school at the time the installment plan is entered into. The lien attaches to the real property upon the approval of the installment payment plan by the Board and is perfected upon filing in the office of the clerk of superior court in each county in which the real property is situated. The priority of the lien is superior to all nongovernmental liens. TSERS may enforce the lien by judicial foreclosure.

These provisions became effective June 28, 2018, and apply to charter schools electing to cease participation in the TSERS on or after that date. The priority of the lien over nongovernmental liens apply only to nongovernmental liens that have attached to the property on or after that date.

Section 4 of House Bill 866 provides that Section 3 of S.L. 2018-84 expires on June 14, 2023. It also provides that any charter school entering a withdrawal liability plan before June 14, 2023, must have the

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full three years to complete the payment plan and the lien priority applies during the entire period of the payment plan.

EFFECTIVE DATE: The act is effective when it becomes law.