

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 598

Short Title: UNC Health Care Debt Collection.

(Public)

Sponsors: Representative Hackney (by request).

Referred to: Judiciary I.

March 29, 1993

A BILL TO BE ENTITLED

1 AN ACT RELATING TO THE COLLECTION OF HEALTH CARE DEBTS OWED
2 CONSTITUENT INSTITUTIONS OR AGENCIES OF THE UNIVERSITY OF
3 NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 Section 1. Part 3 of Article 1 of Chapter 116 of the General Statutes is
6 amended by adding the following new sections:

7 **"§ 116-37A. Action to recover charges for health care debts.**

8 (a) Immediately upon the fixing of the amount of a patient's or former patient's
9 bill with any constituent institution or agency of The University of North Carolina, a
10 cause of action accrues for the charges in favor of The University of North Carolina on
11 behalf of the constituent institution or agency against the patient, former patient, and the
12 person legally responsible for paying the charges, if other than the patient or former
13 patient.

14 (b) The lawsuit upon the cause of action, including any small claim action, may
15 be brought in the courts of Wake County, the courts of the county where the constituent
16 institution or agency is located, or in the courts of the county where a defendant resides.

17 (c) In any action to recover charges in district or superior court, a verified and
18 itemized statement of the account signed by the chief financial officer of the constituent
19 institution or agency, or designee, showing the period of time during which the patient
20 or former patient was receiving care, the total amount due on the account, and the
21 proper credits for any payments that may have been made on the account, may be filed
22 with the complaint and shall constitute a **prima facie** case.

23 **"§ 116-37B. Prosecution of suit.**

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1 At the request of any constituent institution or agency of The University of North
2 Carolina, all actions and lawsuits described in G.S. 116-37A that are in district or
3 superior court shall be prosecuted by the Attorney General. Suits in small claim actions
4 need not be prosecuted by the Attorney General, but may be prosecuted by any
5 employee of the constituent institution or agency in the name of The University of
6 North Carolina. The constituent institution or agency has the right to select the venue of
7 all actions.

8 **"§ 116-37C. Judgment never barred; principal residence protected.**

9 Any judgment obtained in a lawsuit or action described in G.S. 116-37A, by or in
10 the name of The University of North Carolina for collection of the charges of any
11 constituent institution or agency, which charges were incurred after ratification of G.S.
12 116-37A through G.S. 116-37E, shall never be barred by any statute of limitation but
13 shall, to the extent unpaid, continue in force. At the request of the Attorney General, or
14 the chief administrative officer of the constituent institution or agency, or designee, the
15 clerk shall issue an execution.

16 Any constituent institution or agency of The University of North Carolina may not,
17 after a judgment in a suit, levy upon or sell under execution, during the lifetime of a
18 judgment debtor, real property so long as it constitutes the primary residence of any
19 judgment debtor; except that upon a transfer of any legal or equitable ownership interest
20 in the judgment debtor's primary residence, whether or not consideration was given for
21 the transfer, or upon a fraudulent transfer at any time of any legal or equitable
22 ownership interest in the primary residence, then the constituent institution or agency
23 shall be entitled to levy upon and sell under execution the real property constituting or
24 formerly constituting the primary residence. No restriction is imposed concerning the
25 levy and sale of any other property of a judgment debtor. Any constituent institution or
26 agency shall be entitled to enforce its judgment lien and to pursue a claim against the
27 estate after the death of the judgment debtor, subject to the above requirements
28 concerning a primary residence of a surviving judgment debtor.

29 **"§ 116-37D. Death of a patient or responsible person; lien on estate.**

30 (a) In the event of the death of a patient or former patient, or any other person
31 legally responsible for paying the charges of a patient or former patient, of any
32 constituent institution or agency of The University of North Carolina, if any charges for
33 care remain unpaid, then the unpaid charges shall constitute a lien on all property, both
34 real and personal, of the decedent and shall be payable from the decedent's estate as a
35 fourth-class claim, after the payment of taxes to the State or its subdivisions. Payments
36 made by a fiduciary including those made by a clerk of superior court in full or partial
37 satisfaction of this lien, constitute a valid expenditure of funds of the estate.

38 (b) Upon the death of a patient or former patient, or any other person legally
39 responsible for paying the charges of a patient or former patient, of any constituent
40 institution or agency of The University of North Carolina, that institution or agency may
41 file its verified statement of account containing the following:

- 42 (1) The name of the decedent;
- 43 (2) The date of death of the person (if known);
- 44 (3) The inclusive dates of the provision of care; and

1 (4) The amount of the unpaid balance.
2 The statement shall be filed in the office of the clerk of superior court in the county of
3 residence of the decedent and in the county or counties in which real property is located
4 in which the decedent owns an interest. The statement shall be docketed and indexed by
5 the clerk.

6 (c) From the time of docketing, the statement constitutes due notice of the lien,
7 created by this section, against all real property then owned in whole or in part by the
8 decedent and lying in that county, to the extent of the amount of the unpaid balance for
9 the care as evidence by the verified statement of account for charges from and after
10 ratification of this section.

11 (d) No action to enforce this lien may be brought more than three years from the
12 date of death of the patient or former patient, or any other person legally responsible for
13 paying the charges of a patient or former patient, and any judgment obtained in such an
14 action shall relate back in lien priority to the date of docketing the constituent
15 institution's or agency's prior lien, if any. The failure to bring this action or the failure
16 of the constituent institution or agency to file a verified statement of account shall not
17 be a complete bar against recovery but shall only extinguish the lien and priority
18 established by it.

19 (e) Upon receipt of the unpaid balance by the constituent institution or agency of
20 The University of North Carolina, or upon agreement of compromise of the unpaid
21 balance and payment of the compromised amount, the constituent institution or agency
22 shall notify the clerks of superior court in the counties where the lien has been recorded
23 that the unpaid balance has been paid, and the clerks shall cancel the lien of record.

24 **"§ 116-37E. Lien on property for unpaid balance due institution.**

25 (a) There is created a general lien on both real and personal property of any
26 patient or former patient, and any other person legally responsible for paying the
27 charges of the patient or former patient, on behalf of the constituent institution or
28 agency of The University of North Carolina to the extent of the amount of the unpaid
29 balance as shown on a verified statement of account for charges from and after
30 ratification of G.S. 116-37A through G.S. 116-37E.

31 (b) This general lien for the unpaid balance for care at any constituent institution
32 or agency applies to the property, both real and personal, of the person treated, or any
33 other legally responsible person, whether the property is held by either or both or by a
34 trustee or guardian.

35 (c) At the time considered suitable in the discretion of the constituent institution
36 or agency, it may file its verified statement of account containing the following:

37 (1) The names of the patient or former patient, and any other person
38 legally responsible;

39 (2) The inclusive dates of the provision of care and a statement that care is
40 continuing, if applicable; and

41 (3) The amount of the unpaid balance.

42 The statement may be filed in the office of the clerk of superior court in each county or
43 counties where real property in which the patient or former patient or any other legally
44 responsible person owns an interest is found, and may also be filed in the county of

1 residence of the person treated or of any other person legally responsible for paying the
2 charges. The statement shall be docketed and indexed by the clerk.

3 (d) From the time of docketing, the statement constitutes due notice of a lien
4 against the real property then owned in whole or in part or thereafter acquired in whole
5 or in part by the patient or former patient or any other legally responsible person and
6 lying in such county, to the extent of the amount of the unpaid balance for the care, as
7 evidenced by the verified statement of account for charges from and after ratification of
8 this section. Payments made by a fiduciary of a patient or former patient, including
9 those made by a clerk of superior court, in full or partial satisfaction of such lien,
10 constitute a valid expenditure of funds, and a receipt for payment of these charges shall
11 be a valid voucher in the fiduciary's settlement of accounts of the trust.

12 (e) The lien thus established shall take priority over all other liens subsequently
13 acquired and shall continue from the date of filing until satisfied. No action to enforce
14 this lien may be brought more than three years from the date of filing of the lien nor
15 more than three years after the death of the patient or former patient, and any judgment
16 obtained in such an action shall relate back in lien priority to the date of docketing the
17 constituent institution's or agency's prior lien, if any. The failure to bring the action or
18 the failure of any constituent institution or agency of The University of North Carolina
19 to file a verified statement of account shall not be a complete bar against recovery but
20 shall only extinguish the lien and priority established by it.

21 (f) Upon receipt of the full unpaid balance by any constituent institution or
22 agency, or upon agreement of compromise of the unpaid balance and payment of the
23 compromised amount, the constituent institution or agency shall notify the clerks of
24 superior court in the counties where the lien has been recorded that the unpaid balance
25 has been paid, and the clerks shall cancel the lien of record."

26 Sec. 2. This act is effective upon ratification and applies to charges incurred
27 on or after that date.