

Chapter 44.

Liens.

Article 1.

Mechanics', Laborers', and Materialmen's Liens.

§ 44-1. Repealed by Session Laws 1969, c. 1112, s. 4.

§§ 44-2 through 44-5. Repealed by Session Laws 1967, c. 1029, s. 2.

Article 1A.

Wage Liens.

§ 44-5.1. Wages for two months' lien on assets.

In case of the insolvency of a corporation, partnership or individual, all persons doing labor or service of whatever character in its regular employment have a lien upon the assets thereof for the amount of wages due to them for all labor, work, and services rendered within two months next preceding the date when proceedings in insolvency were actually instituted and begun against the corporation, partnership or individual, which lien is prior to all other liens that can be acquired against such assets: Provided, that the lien created by this section shall not apply to multiple unit dwellings, apartment houses, or other buildings for family occupancy except as to labor performed on the premises upon which the lien is claimed. This section shall not apply to any single unit family dwelling. (1901, c. 2, s. 87; Rev., s. 1206; C.S., s. 1197; 1937, c. 223; 1943, c. 501; 1955, c. 1345, s. 4.)

Article 2.

Subcontractors', etc., Liens and Rights against Owners.

§ 44-6. Repealed by Session Laws 1971, c. 880, s. 2.

§ 44-7. Repealed by Session Laws 1943, c. 543.

§§ 44-8 through 44-13. Repealed by Session Laws 1971, c. 880, s. 2.

§ 44-14. Repealed by Session Laws 1973, c. 1194, s. 6.

Article 3.

Liens on Vessels.

§§ 44-15 through 44-27. Repealed by Session Laws 1967, c. 1029, s. 2.

Article 4.

Warehouse Storage Liens.

§§ 44-28 through 44-29. Repealed by Session Laws 1967, c. 562, s. 6.

Article 5.

Liens of Hotel, Boarding and Lodging House Keeper.

§§ 44-30 through 44-32. Repealed by Session Laws 1967, c. 1029, s. 2.

Article 6.

Liens of Livery Stable Keepers.

§§ 44-33 through 44-35. Repealed by Session Laws 1967, c. 1029, s. 2.

Article 7.

Liens on Colts, Calves and Pigs.

§§ 44-36 through 44-37.1. Repealed by Session Laws 1967, c. 1029, s. 2.

Article 8.

Perfecting, Recording, Enforcing and Discharging Liens.

§ 44-38. Claim of lien to be filed; place of filing.

All claims shall be filed in the office of the clerk of superior court in the county where the labor has been performed or the materials furnished, specifying in detail the materials furnished or the labor performed, and the time thereof. If the parties interested make a special contract for such labor performed, or if such material and labor are specified in writing, in such cases it shall be decided agreeably to the terms of the contract, provided the terms of such contract do not affect the lien for such labor performed or materials furnished. (1869-70, c. 206, s. 4; 1876-7, c. 53, s. 1; Code, s. 1784; Rev., s. 2026; C.S., s. 2469; 1971, c. 1185, s. 4.)

§ 44-38.1. Repealed by Session Laws 1967, c. 562, s. 7.

§§ 44-39 through 44-46. Repealed by Session Laws 1969, c. 1112, s. 4.

§ 44-47. Repealed by Session Laws 1971, c. 1185, s. 5.

§ 44-48. Discharge of liens.

All liens created by this Chapter may be discharged as follows:

- (1) By filing with the clerk a receipt or acknowledgment, signed by the claimant, that the lien has been paid or discharged.
- (2) By depositing with the clerk money equal to the amount of the claim, which money shall be held by said officer for the benefit of the claimant.

- (3) By an entry in the lien docket that the action on the part of the claimant to enforce the lien has been dismissed, or a judgment rendered against the claimant in such action.
- (4) By a failure of the claimant to commence an action for the enforcement of the lien within six months from the notice of lien filed. (1868-9, c. 117, s. 12; Code, s. 1793; Rev., s. 2033; C.S., s. 2479; 1971, c. 1185, s. 6.)

Article 9.

Liens upon Recoveries for Personal Injuries to Secure Sums Due for Medical Attention, etc.

§ 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. This lien is in favor of any person, corporation, State entity, 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, services rendered by any physician, dentist, nurse, or hospital, or hospital attention or services rendered in connection with the injury in compensation for which the damages have been recovered. Where damages are recovered for and in behalf of minors or persons non compos mentis, the liens shall attach to the sum recovered as fully as if the person were sui juris.

(b) Notwithstanding subsection (a) of this section, no lien provided for under subsection (a) of this section is valid with respect to any claims whatsoever unless the physician, dentist, nurse, hospital, corporation, or other person entitled to the lien furnishes, without charge to the attorney as a condition precedent to the creation of the lien, 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 the attorney in the negotiation, settlement, or trial of the claim arising by reason of the personal injury, and a written notice to the attorney of the lien claimed.

(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 under subsection (a) of this section when recovery has been had by the person injured, and no claims against 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 the action for personal injuries. (1935, c. 121, s. 1; 1947, c. 1027; 1959, c. 800, s. 1; 1967, c. 1204, s. 1; 1969, c. 450, s. 1; 2001-377, s. 1; 2001-487, s. 59.)

§ 44-49.1: Recodified as § 58-3-135 by Session Laws 1995 (Regular Session, 1996), c. 674, s. 1.

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

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 injuries, whether in litigation or 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 any drugs,

medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or hospital, or hospital attention or services, after having received notice of those claims. Evidence as to the amount of the charges shall be competent in the trial of 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. 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. (1935, c. 121, s. 2; 1959, c. 800, s. 2; 1969, c. 450, s. 2; 1995 (Reg. Sess., 1996), c. 674, s. 3; 2001-377, s. 2.)

§ 44-50.1. Accounting of disbursements; attorney's fees to enforce lien rights.

(a) Notwithstanding any confidentiality agreement entered into between the injured person and the payor of proceeds as settlement of compensation for injuries, upon the lienholder's written request and the lienholder's written agreement to be bound by any confidentiality agreements regarding the contents of the accounting, any person distributing funds to a lienholder under this Article in an amount less than the amount claimed by that lienholder shall provide to that lienholder a certification with sufficient information to demonstrate that the distribution was pro rata and consistent with this Article. If the person distributing settlement or judgment proceeds is an attorney, the accounting required by this section is not a breach of the attorney-client privilege.

(b) The certification under subsection (a) of this section shall include a statement of all of the following:

- (1) The total amount of the settlement.
- (2) The total distribution to lienholders, the amount of each lien claimed, and the percentage of each lien paid.
- (3) The total attorney's fees.

(c) Nothing in this Article shall be construed to require any person to act contrary to the requirements of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, and regulations adopted pursuant to that Act. (2003-309, s. 1.)

§ 44-51. Disputed claims to be settled before payments.

Whenever the sum or amount or amounts demanded for medical services or hospital fees shall be in dispute, nothing in this Article shall have any effect of compelling payment thereof until the claim is fully established and determined, in the manner provided by law: Provided, however, that when any such sums are in dispute the amount of the lien shall in no case exceed the amount of the bills in dispute. (1935, c. 121, s. 3; 1943, c. 543.)

Article 9A.

Liens for Ambulance Service.

§ 44-51.1. Lien on real property of recipient of ambulance service paid for or provided by county or municipality.

There is hereby created a general lien upon the real property of any person who has been furnished ambulance service by a county or municipal agency or at the expense of county or municipal government. The lien created by this section shall continue from the date of filing until satisfied, except that no action to enforce it may be brought more than 10 years after the date on

which ambulance service was furnished nor more than three years after the date of recipient's death. Failure to bring action within such times shall be a complete bar against any recovery and shall extinguish the lien. (1969, c. 684.)

§ 44-51.2. Filing within 90 days required.

No lien created by G.S. 44-51.1 shall be valid but from the time of filing in the office of the clerk of superior court a statement containing the name and address of the person against whom the lien is claimed, the name of the county or municipality claiming the lien, the amount of the unpaid charge for ambulance service, and the date and place of furnishing ambulance service for which charges are asserted and the lien claimed. No lien under this Article shall be valid unless filed in accordance with this section within 90 days of the date of the furnishing the ambulance service. (1969, c. 684.)

§ 44-51.3. Discharge of lien.

Liens created by this Article may be discharged as follows:

- (1) By filing with the clerk of superior court a receipt or acknowledgment, signed by the county or municipal treasurer, that the lien has been paid or discharged;
- (2) By depositing with the clerk of superior court money equal to the amount of the claim, which money shall be held for the benefit of the claimant; or
- (3) By an entry in the lien docket that the action on the part of the lien claimant to enforce the lien has been dismissed, or a judgment has been rendered against the claimant in such action. (1969, c. 684.)

Article 9B.

Attachment or Garnishment and Lien for Ambulance Service in Certain Counties.

§ 44-51.4. Attachment or garnishment for county or city ambulance or county or city supported ambulance service.

Whenever ambulance services are provided by a county, by a county-franchised ambulance service supplemented by county funds, or by a municipally owned and operated ambulance service or by an ambulance service supplemented by municipal funds and a recipient of such ambulance services or one legally responsible for the support of a recipient of such services fails to pay charges fixed for such services for a period of 90 days after the rendering of such services, the county or municipality providing the ambulance services, or providing financial support to the ambulance service, may treat the amount due for such services as if it were a tax due to the county or municipality and may proceed to collect the amount due through the use of attachment and garnishment proceedings as set out in G.S. 105-368. (1969, c. 708, s. 1; 1973, c. 1366, s. 1; 1975, c. 595, s. 2; 1991, c. 595.)

§ 44-51.5. General lien for county or city ambulance service.

There is hereby created a general lien upon the real property of any person who has been furnished ambulance service by a county, by a county-franchised ambulance service supplemented by county funds, or municipal agency or at the expense of a county or municipal government or upon the real property of one legally responsible for the support of any person who has been furnished such ambulance service. (1969, c. 708, s. 2; 1973, c. 1366, s. 2.)

§ 44-51.6. Lien to be filed.

No lien created by G.S. 44-51.5 shall be valid but from the time of filing in the office of the clerk of superior court a statement containing the name and address of the person against whom the lien is claimed, the name of the county or municipality claiming the lien, the amount of the unpaid charge for ambulance service, and the date and place of furnishing the ambulance service for which charges are asserted and the lien claimed. No lien under this section shall be valid unless filed after 90 days of the date of the furnishing of ambulance service, and within 180 days of the date of the furnishing of ambulance service. (1969, c. 708, s. 3.)

§ 44-51.7. Discharging lien.

Liens created by G.S. 44-51.5 may be discharged as follows:

- (1) By filing with the clerk of superior court a receipt of acknowledgment, signed by the county treasurer, that the lien has been paid or discharged;
- (2) By depositing with the clerk of superior court money equal to the amount of the claim, which money shall be held for the benefit of the claimant; or
- (3) By an entry in the lien docket that the action on the part of the lien claimant to enforce the lien has been dismissed, or a judgment has been rendered against the claimant in such action. (1969, c. 708, s. 4.)

§ 44-51.8. Counties to which Article applies.

The provisions of this Article shall apply only to Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Columbus, Craven, Cumberland, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pasquotank, Pender, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wilkes, Wilson, Yadkin and Yancey Counties. (1969, c. 708, s. 5; c. 1197; 1971, c. 132; 1973, c. 880, s. 1; cc. 887, 894, 907, 1182; 1975, c. 595, s. 1; 1977, cc. 64, 138, 357; 1977, 2nd Sess., cc. 1144, 1157; 1979, c. 452; 1983, cc. 186, 424; 1983 (Reg. Sess., 1984), c. 933; 1985, c. 9; 1985 (Reg. Sess., 1986), c. 936, s. 6; 1987, c. 466; 1995, c. 9, s. 1; 1995 (Reg. Sess., 1996), c. 676, s. 1; 2000-15, s. 3; 2000-107, s. 1; 2017-53, s. 1.)

Article 10.

Agricultural Liens for Advances.

§§ 44-52 through 44-64: Repealed by Session Laws 1965, c. 700, s. 2.

Article 11.

Uniform Federal Tax Lien Registration Act.

§§ 44-65 through 44-68: Repealed by Session Laws 1969, c. 216.

§§ 44-68.1 through 44-68.7: Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1047, s. 2.

§ 44-68.8. Reserved for future codification purposes.

§ 44-68.9. Reserved for future codification purposes.

Article 11A.

Uniform Federal Lien Registration Act.

§ 44-68.10. Short title.

This Article may be cited as the Uniform Federal Lien Registration Act. (1989 (Reg. Sess., 1990), c. 1047, s. 1.)

§ 44-68.11. Scope.

This Article applies only to federal tax liens, to other federal liens notices of which under any Act of Congress or any regulation adopted pursuant thereto are required or permitted to be filed in the same manner as notices of federal tax liens, and to notices of federal liens upon real property pursuant to 42 U.S.C. § 9607(l). (1989 (Reg. Sess., 1990), c. 1047, s. 1.)

§ 44-68.12. Place of filing.

(a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this Article.

(b) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the clerk of superior court of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

- (1) If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this State, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State;
- (2) In all other cases, in the office of the clerk of superior court of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien. (1989 (Reg. Sess., 1990), c. 1047, s. 1.)

§ 44-68.13. Execution of notices and certificates.

Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be

filed and no other attestation, certification, or acknowledgement is necessary. (1989 (Reg. Sess., 1990), c. 1047, s. 1.)

§ 44-68.14. Duties of filing officer.

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (b) is presented to a filing officer who is:

- (1) The Secretary of State, he shall cause the notice to be numbered, maintained, and indexed in accordance with G.S. 25-9-519, as if the notice were a financing statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes; or
- (2) Any other officer described in G.S. 44-68.12, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he shall cause:

- (1) A record of a certificate of release or nonattachment to be numbered, maintained, and indexed as if a record of the certificate were a termination statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes, but the record of the notice of lien to which the certificate relates may not be removed from the files; and
- (2) A record of a certificate of discharge or subordination to be numbered, maintained, and indexed as if the record of the certificate were a release of collateral within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes.

(c) If a refiled notice of federal lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing to any other filing officer specified in G.S. 44-68.12, he shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this Article or (reference previous federal tax lien registration act), naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is five dollars (\$5.00). Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar (\$1.00) per page. (Ex. Sess. 1924, c. 44, ss. 2, 3; 1953, c. 1106, ss. 1, 2; 1963, c. 544; 1969, c. 216; 1989 (Reg. Sess., 1990), c. 1047, s. 1; 2000-169, ss. 33, 34.)

§ 44-68.15. Fees.

(a) The fee for filing and indexing each notice of lien or certificate or notice affecting the lien in the Office of the Secretary of State is:

- (1) For a lien on real estate, five dollars (\$5.00);
- (2) For a lien on tangible and intangible personal property, five dollars (\$5.00);

- (3) For a certificate of discharge or subordination, five dollars (\$5.00);
- (4) For all other notices, including a certificate of release or nonattachment, five dollars (\$5.00).

(b) The fee for filing and indexing each notice of lien or certificate or notice affecting the lien in the office of the Clerk of Superior Court, and the fee for furnishing the certificate or copies provided for in G.S. 44-68.14(d), is as provided in G.S. 7A-308.

(c) The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them. (1989 (Reg. Sess., 1990), c. 1047, s. 1.)

§ 44-68.16. Uniformity of application and construction.

This Article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Article among states enacting it. (1989 (Reg. Sess., 1990), c. 1047, s. 1.)

§ 44-68.17. Liens and notices filed before August 1, 1990.

All liens, notices, certificates, releases and refilings filed before August 1, 1990, to which this Article would otherwise apply if such filing occurred on or after August 1, 1990, and any indexes pertaining thereto, shall be transferred to and maintained in the office in which such filing would have been made had the filing occurred on or after August 1, 1990. (1989 (Reg. Sess., 1990), c. 1047, s. 1.)

Article 12.

Liens on Certain Agricultural Products.

§ 44-69. Effective period for lien on leaf tobacco sold in auction warehouse.

No chattel mortgage, agricultural lien, or other lien of any nature upon leaf tobacco shall be effective for any purpose for a longer period than six months after the sale of such tobacco at a regular sale in an auction tobacco warehouse during the regular season for auction sales of tobacco in such warehouse. This section shall not absolve any person from prosecution and punishment for crime. (1943, c. 642, s. 1; 1975, c. 318.)

§ 44-69.1. Effective period for liens on peanuts, cotton and grains.

No chattel mortgage, agricultural lien or other lien of any nature upon peanuts, cotton, soybeans, corn, wheat or other grains shall be effective for any purpose for a longer period than 18 months from the date of sale or the date of delivery to the purchaser, whichever date shall fall last. This section shall not absolve any person from prosecution and punishment for crime. (1955, c. 266; 1975, c. 318.)

§ 44-69.2. Effective period for liens on fruits and vegetables.

No security interest in or lien on fruits and vegetables sold at a regular sale at an auction market at which the Department of Agriculture and Consumer Services furnishes certified inspectors pursuant to Article 17 of Chapter 106 is effective for any purpose more than six months after the date of the sale. This section does not absolve any person from prosecution and punishment for crime. (1981, c. 640, s. 2; 1997-261, s. 109.)

§ 44-69.3. Liens on tangible and intangible assets of milk distributors.

(a) A producer, or an association of producers who supplies milk either through an agreement of sale or on consignment to a distributor shall, upon complying with the provisions of this section, have a lien upon the tangible and intangible assets, including but not limited to the accounts receivable of the distributor to secure payment for such milk. For the purposes of this section, "milk" means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or other process.

(b) The lien claimed by the producer or association of producers must be filed in the office of the clerk of court for the county of the distributor's principal place of business. Provided that if the distributor is not a resident of the State a filing must be made with the clerk of superior court for the county in which the distributor's registered office is located. The clerk shall note the claim of lien on the judgment docket and index the same under the name of the distributor at the time the claim is filed.

(c) A producer or association of producers claiming nonpayment for milk sold to a distributor shall file with the clerk a notarized statement of nonpayment. The statement shall contain at a minimum all of the following information:

- (1) The name of the distributor who received the milk.
- (2) The date and quantity of milk shipped for which payment has not been received.
- (3) Repealed by Session Laws 2004-199, s. 27(f), effective August 17, 2004.

The producer or association of producers shall furnish a copy of the statement as provided by this subsection to the distributor, which shall constitute a notice of claim of lien. The notice shall be served personally by a person authorized by law to serve process or by certified mail. The lien granted by this section shall be effective as of the time it is filed with the clerk of court. Provided the distributor shall have the right to contest the validity of such lien by filing, with the clerk of court and serving on the producer within 10 days after he receives notice that the producer has filed a claim of lien, a notice that the distributor contest the amount due thereunder. In the event the distributor fails to contest the lien or is unsuccessful in obtaining a discharge of the lien, the lien shall be perfected as of the date of filing with the clerk of court.

(d) The lien created by this section may be discharged in any of the following manner:

- (1) Repealed by Session Laws 2004-199, s. 27(f), effective August 17, 2004.
- (2) By depositing with the clerk of superior court money equal to the amount of the claim, which money shall be held for the benefit of the producer.
- (3) By an entry in the lien docket that the action on the part of the lien claimant to enforce the lien has been dismissed or a judgment has been rendered against the claimant in such action.
- (4) By filing with the clerk a sworn statement signed by the producer or an official of an association of producers that the lien or claim of lien has been satisfied.

(e) Action to enforce the lien created by this section may be instituted in any court of competent jurisdiction in the county where the lien was filed not later than 90 days following the maturity of the distributor's obligation to pay for the milk. In the event no action to enforce the lien is commenced within the 90-day period the lien created hereby shall no longer be valid. (1985, c. 678, s. 1; 2004-199, s. 27(f).)

Article 13.

Factors' Liens.

§§ 44-70 through 44-76. Repealed by Session Laws 1965, c. 700, s. 2.

Article 14.

Assignment of Accounts Receivable and Liens Thereon.

§§ 44-77 through 44-85. Repealed by Session Laws 1965, c. 700, s. 2.

Article 15.

Liens for Overdue Child Support.

§ 44-86. Lien on real and personal property of person owing past-due child support; definitions; filing required; discharge.

(a) Definitions. – As used in this Article, the terms "designated representative", "obligee", and "obligor" have the meanings given them in G.S. 110-129.

(b) Lien Created. – There is created a general lien upon the real and personal property of any person who is delinquent in the payment of court-ordered child support. For purposes of this section, an obligor is delinquent when arrears under a court-ordered child support obligation equals three months of payments or three thousand dollars (\$3,000), whichever occurs first. The amount of the lien shall be determined by a verified statement of child support delinquency prepared in accordance with subsection (c) of this section.

(c) Contents of Statement; Verification. – A verified statement of child support delinquency shall contain the following information:

- (1) The caption and file docket number of the case in which child support was ordered;
- (2) The date of the order of support;
- (3) The amount of the child support obligation established by the order; and
- (4) The amount of the arrearage as of the date of the statement.

The statement shall be verified by the designated representative in a IV-D case and by the obligee in a non-IV-D case.

(d) Filing and Perfection of Lien. – The verified statement shall be filed in the office of the clerk of superior court in the county in which the child support was ordered. At the time of filing the verified statement, the designated representative in a IV-D case and the obligee in a non-IV-D case shall serve notice on the obligor that the statement has been filed. The notice shall be served and the return of service filed with the clerk of court in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall specify the manners in which the lien may be discharged. Upon perfection of the lien, as set forth herein, the clerk shall docket and index the statement on the judgment docket. The clerk shall issue a transcript of the docketed statement to the clerk of any other county as requested by the designated representative in a IV-D case or the obligee in a non-IV-D case. The clerk receiving the transcript shall docket and index the transcript. A lien on personal property attaches when the property is seized by the sheriff. A lien on real property attaches when the perfected lien is docketed and indexed on the judgment docket.

- (1) IV-D Cases. – In IV-D cases, the filing of a verified statement with the clerk of court by the designated representative shall perfect the lien. The obligor may contest the lien by motion in the cause.
- (2) Non-IV-D Cases. – In a non-IV-D case, the notice to the obligor of the filing of the verified statement shall state that the obligor has 30 days from the date of service to request a hearing before a district court judge to contest the validity of the lien. If the obligor fails to contest the lien after 30 days from the time of service, the obligee may make application to the clerk, and the clerk shall record and index the lien on the judgment docket. If the obligee files a petition contesting the validity of the lien, a hearing shall be held before a district court judge to determine whether the lien is valid and proper. In contested cases, the clerk of court shall record and index the lien on the judgment docket only by order of the judge. The docketing of a verified statement in a non-IV-D case shall perfect the lien when duly recorded and indexed.

(e) Lien Superior to Subsequent Liens. – Except as otherwise provided by law, a lien established in accordance with this section shall take priority over all other liens subsequently acquired and shall continue from the date of filing until discharged in accordance with G.S. 44-87.

(f) Execution on the Lien. – A designated representative in a IV-D case, after 30 days from the docketing of the perfected lien, or an obligee in a non-IV-D case, after docketing the perfected lien, may enforce the lien in the same manner as for a civil judgment.

(g) Liens Arising Out-of-State. – This State shall accord full faith and credit to child support liens arising in another state when the child support enforcement agency, party, or other entity seeking to enforce the lien complies with the requirements relating to recording and serving child support liens as set forth in this Article and with the requirements relating to the enforcement of foreign judgments as set forth in Chapter 1C of the General Statutes. (1997-433, s. 7; 1998-17, s. 1.)

§ 44-87. Discharge of lien; penalty for failure to discharge.

(a) Liens created by this Article may be discharged as follows:

- (1) By the designated representative in IV-D cases, or by the obligee in non-IV-D cases, filing with the clerk of superior court an acknowledgment that the obligor has satisfied the full amount of the lien;
- (2) By depositing with the clerk of superior court money equal to the amount of the claim and filing a petition in the cause requesting a district court judge to determine the validity of the lien. The money shall not be disbursed except by order of a district court judge following the hearing on the merits; or
- (3) By an entry in the judgment docket book that the action on the part of the lien claimant to enforce the lien has been dismissed, or a judgment has been rendered against the claimant in such action.

(b) An obligee in a non-IV-D case who has received payment in full for a delinquent child support obligation which is the basis for the lien shall, within 30 days of receipt of payment, file with the clerk of court an acknowledgment that the obligor has satisfied the full amount of the lien and that the lien is discharged. If the lienholder fails to timely file the acknowledgment, the obligor may, after serving notice on the obligee, file an action in district court to discharge the lien. If in an action filed by the obligor to discharge the lien, the court discharges the lien and finds that the obligee failed to timely file an acknowledgment discharging the lien, then the court may allow the

prevailing party to recover reasonable attorneys' fees to be taxed as court costs against the obligee.
(1997-433, s. 7; 1998-17, s. 1.)