

3037

2013-2014 Regular Sessions

I N S E N A T E

January 29, 2013

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and
when printed to be committed to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to set-off against attorney's fees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 475 of the judiciary law, as amended by chapter
2 478 of the laws of 2012, is amended to read as follows:
3 S 475. Attorney's lien in action, special or other proceeding. From
4 the commencement of an action, special or other proceeding in any court
5 or before any state, municipal or federal department, except a department of labor, or the service of an answer containing a counterclaim, or
6 the initiation of any means of alternative dispute resolution including,
7 but not limited to, mediation or arbitration, or the provision of
8 services in a settlement negotiation at any stage of the dispute, the
9 attorney who appears for a party has a lien upon his or her client's
10 cause of action, claim or counterclaim, which attaches to a verdict,
11 report, determination, decision, award, settlement, judgment or final
12 order in his or her client's favor, and the proceeds thereof in whatever
13 hands they may come; and the lien cannot be affected by any settlement
14 between the parties before or after judgment, final order or determination; AND AN ATTORNEY'S LIEN MAINTAINS SUPERIORITY OVER A RIGHT OF
15 SET-OFF WHERE THE SET-OFF IS UNRELATED TO THE JUDGMENT OR SETTLEMENT TO
16 WHICH THE ATTORNEY'S LIEN ATTACHED AND THE ATTORNEY'S SERVICES CREATED
17 THE FUND THAT ANY RIGHT OF SET-OFF IS CLAIMED AGAINST. The court upon
18 the petition of the client or attorney may determine and enforce the
19 lien.
20 S 2. This act shall take effect immediately.
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EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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