S T A T E O F N E W Y O R K

8697

2009-2010 Regular Sessions

I N A S S E M B L Y

June 3, 2009

Introduced by M. of A. TITONE, WEINSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to authorizing an attorney to attach a charging lien to awards and settlement proceeds that clients receive through alternative dispute resolutions and settlement negotiations

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

Section 1. Section 475 of the judiciary law, as amended by chapter 105 of the laws of 1946, is amended to read as follows:

S 475. Attorney's lien in action, special or other proceeding. From the commencement of an action, special or other proceeding in any court or before any state, municipal or federal department, except a department of labor, or the service of an answer containing a counterclaim, OR THE INITIATION OF ANY MEANS OF ALTERNATIVE DISPUTE RESOLUTION INCLUDING, BUT NOT LIMITED TO, MEDIATION OR ARBITRATION, OR THE PROVISION OF SERVICES IN A SETTLEMENT NEGOTIATION AT ANY STAGE OF THE DISPUTE, the attorney who appears for a party has a lien upon his OR HER client's cause of action, claim or counterclaim, which attaches to a verdict, report, determination, decision, AWARD, SETTLEMENT, judgment or final order in his OR HER client's favor, and the proceeds thereof in whatever hands they may come; and the lien cannot be affected by any settlement between the parties before or after judgment, final order or determination. The court upon the petition of the client or attorney may determine and enforce the lien.

S 2. Section 475-a of the judiciary law, as added by chapter 551 of the laws of 1955, is amended to read as follows:

S 475-a. NOTICE OF LIEN. If prior to the commencement of an action, ARBITRATION, MEDIATION OR A FORM OF ALTERNATIVE DISPUTE RESOLUTION, OR A special or other proceeding, an attorney serves a notice of lien upon the person or persons against whom his OR HER client has or may have a

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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claim or cause of action, the attorney has a lien upon the claim or cause of action from the time such notice is given, which attaches to a verdict, report, determination, decision, AWARD, SETTLEMENT or final order in his OR HER client's favor of any court, ARBITRAL TRIBUNAL or of any state, municipal or federal department, except a department of labor, and to any money or property which may be recovered on account of such claim or cause of action in whatever hands they may come; and the lien cannot be affected by any settlement between the parties after such notice of lien is given. The notice shall, (1) be served by either personal service or registered mail; (2) be in writing; (3) state that the relationship of attorney and client has been established, the nature of the claim or cause of action, and that the attorney claims a lien on such claim or cause of action; (4) be signed by the client, or by a person on his OR HER behalf whose relationship is shown, and which signature shall also be witnessed by a disinterested person whose address shall also be given; and (5) be signed by the attorney. A lien obtained under this section shall otherwise have the same effect and be enforced in the same manner as a lien obtained under section four hundred seventy-five of this [chapter] ARTICLE.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.