

6836

I N S E N A T E

March 28, 2012

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
2 105 of the laws of 1946, 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
6 of labor, or the service of an answer containing a counterclaim,
7 the attorney who appears for a party has a lien upon his client's cause
8 of action, claim or counterclaim, which attaches to a verdict, report,
9 determination, decision, judgment or final order in his client's favor,
10 and the proceeds thereof in whatever hands they may come; and the lien
11 cannot be affected by any settlement between the parties before or after
12 judgment, final order or determination; AND AN ATTORNEY'S LIEN MAINTAINS
13 SUPERIORITY OVER A RIGHT OF SET-OFF WHERE THE SET-OFF IS UNRELATED TO
14 THE JUDGMENT OR SETTLEMENT TO WHICH THE ATTORNEY'S LIEN ATTACHED AND THE
15 ATTORNEY'S SERVICES CREATED THE FUND THAT ANY RIGHT OF SET-OFF IS
16 CLAIMED AGAINST. The court upon the petition of the client or attorney
17 may determine and enforce the lien.
18 S 2. This act shall take effect immediately.

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

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