

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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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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