

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 1165  
HOUSE BILL 1115

1 AN ACT TO AMEND CHAPTER 108 OF THE GENERAL STATUTES, AS IT APPEARS  
2 IN CHAPTER 546 OF THE SESSION LAWS OF 1969, TO ELIMINATE CERTAIN  
3 DURATIONAL RESIDENCE REQUIREMENTS, TO REINSERT VARIOUS  
4 PROVISIONS PERTAINING TO WELFARE LIENS WITH ADDED PROVISIONS FOR  
5 CLARIFICATION AND ONE PROVISION FOR GIVING SOME PRIORITY TO  
6 FUNERAL EXPENSES OF THE LIENEE, TO CORPORATE AND CLARIFY CERTAIN  
7 PROVISIONS PERTAINING TO THE FINANCING OF MEDICAL ASSISTANCE AND  
8 TO PROVIDE THAT CERTAIN CHARITABLE ORGANIZATIONS HAVING A  
9 PREVIOUS FINANCIAL HISTORY MUST FILE CERTAIN REPORTS.

10  
11 The General Assembly of North Carolina do enact:

12  
13 **Section 1.** Part 1 of Article 2 of Chapter 108 of the General Statutes, as it appears  
14 in Chapter 546 of the Session Laws of 1969, is hereby further amended by repealing  
15 G.S. 108-29 and by inserting in lieu thereof the following:

16 "**G.S. 108-29. Creation of claim and lien on property.** There is hereby created a general  
17 claim and a lien, enforceable as hereinafter provided, upon the real property of any person who  
18 receives assistance to the aged and disabled. The claim and the lien shall be for the total amount  
19 of assistance paid to such person from and after (a) October 1, 1951, if the recipient receives  
20 assistance as an aged person, or (b) October 1, 1963, if the recipient receives assistance as a  
21 permanently and totally disabled person."

22 **Sec. 2.** Part 1 of Article 2 of Chapter 108 of the General Statutes, as it appears in  
23 Chapter 546 of the Session Laws of 1969, is hereby further amended by repealing the first  
24 sentence of G.S. 108-30 and by inserting in lieu thereof the following:

25 "After the approval of assistance to an applicant under this part, the county director of  
26 social services shall file a statement showing the name of the applicant and the date of approval  
27 of the application in the office of the Clerk of the Superior Court in the county of the recipient's  
28 residence and in each county where he owns or subsequently owns real property."

29 **Sec. 3.** Part 1 of Article 2 of Chapter 108 of the General Statutes, as it appears in  
30 Chapter 546 of the Session Laws of 1969, is hereby further amended by repealing G.S. 108-32  
31 and by inserting in the place thereof a new G.S. 108-32 as follows:

32 "**G.S. 108-32. Priority of claim; priority of lien.** (a) The claim created against the estate of  
33 the recipient shall have equal priority in order of payment with the sixth class under  
34 G.S. 28-105 and shall be subordinate to the debts, expenses, taxes, dues and judgments of the  
35 first five classes as provided by G.S. 28-105.

36 "(b) The priority of the lien created on the real property of the recipient shall be  
37 determined in accordance with the laws governing priority of liens against real estate; and, if  
38 real property of a deceased recipient is sold in a judicial sale, including a sale pursuant to an  
39 order made in an action in court to foreclose a lien created by this Chapter, an order to  
40 foreclose a mortgage or deed of trust, an order of a sale to create assets to pay debts; or if real  
41 property of a deceased recipient is sold pursuant to a power of sale contained in a mortgage or  
42 deed of trust, or granted by statute with respect to a mortgage or deed of trust; or sold in an  
43 execution sale, tax foreclosure sale or any sale pursuant to a court order, the proceeds of the

1 sale, except for an amount necessary to pay funeral expenses but not to exceed the amount  
2 specified for the priority of funeral expenses in G.S. 28-105, are to be treated as real property;  
3 and the priority of the lien provided for herein is to be determined with respect to such funds as  
4 if they were real property.

5 "(c) The Board of County Commissioners and the County Board of Social Services of  
6 the county in which the recipient resides may subordinate such lien to a mortgage or lien  
7 created against the property of such recipient for necessary repairs or improvements on the  
8 property, whether title to the property is held by the recipient alone or by the entirety with the  
9 recipient's spouse."

10 **Sec. 4.** Part 1 of Article 2 of Chapter 108 of the General Statutes, as it appears in  
11 Chapter 546 of the Session Laws of 1969, is hereby further amended by repealing the first  
12 sentence of G.S. 108-33 and by inserting in lieu thereof the following:

13 "The lien created by G.S. 108-29 shall continue from the date of filing until satisfied,  
14 provided that any such lien which has been filed more than ten (10) years prior to January 1,  
15 1970, and any such lien which shall become ten (10) years old thereafter shall expire unless an  
16 additional statement of such lien is filed and properly indexed as required by G.S. 108-30, prior  
17 to the date of such expiration; provided further that no action to enforce the lien may be  
18 brought more than ten (10) years after the last day on which assistance was paid nor more than  
19 three (3) years after the date of the recipient's death. Failure to bring action within such times  
20 shall be a complete bar against any recovery and shall extinguish the lien."

21 **Sec. 5.** Part 1 of Article 2 of Chapter 108 of the General Statutes as it appears in  
22 Chapter 546 of the Session Laws of 1969, is hereby further amended by repealing G.S. 108-35,  
23 G.S. 108-36, and G.S. 108-37, and by inserting in lieu thereof new sections as follows:

24 **"G.S. 108-35. Notification of lien on termination of assistance.** The county department of  
25 social services shall, within six months after the termination of an aid to the aged and disabled  
26 grant by reason of death or otherwise, examine the case record of such recipient, the tax records  
27 of the county, and, in case of termination because of death, the records relating to executors,  
28 administrators, collectors, or other personal representatives. If it appears from this examination  
29 or from any other information which has come to the attention of the department, (i) that such  
30 recipient does not own, or has not owned since the date of the filing of the lien against such  
31 recipient's realty, any real property, and (ii) that such recipient does not own nor his estate  
32 consist of any personal property in excess of one hundred dollars (\$100.00), and (iii) in the case  
33 of a termination because of death, that no executor, administrator, collector or other personal  
34 representative has been appointed an entry shall be made in the case record reflecting the  
35 results of this examination. If it appears from this examination, from a subsequent examination,  
36 or from any other information which may come to the attention of the department, (i) that such  
37 recipient does own, or has owned since the date of the filing of the lien against such recipient's  
38 realty, any property, or (ii) that such recipient does own or his estate consists of personal  
39 property of a value in excess of one hundred dollars(\$100.00), or (iii) in case of termination by  
40 death, that an executor, administrator, collector, or other personal representative has been  
41 appointed, then the department shall furnish to the county attorney all available information  
42 concerning the property of the recipient the name of the spouse of the recipient, the township in  
43 which the recipient resides or resided, the total amount of aid to the aged and disabled  
44 assistance received by the recipient from and after October 1, 1951, in the case of a recipient of  
45 aid to the aged, and October 1, 1963, in the case of a recipient of aid to the disabled, by or  
46 through the State and the several counties thereof, and the reason for termination of the grant.

47 **"G.S. 108-36. Enforcement of lien.** Upon receipt of this information, the county attorney shall  
48 take such steps as he may determine to be necessary to enforce the claim or lien herein  
49 provided. If it be made to appear to the Clerk of the Superior Court that the personal property  
50 of the estate of a deceased recipient of assistance does not exceed one hundred dollars  
51 (\$100.00) in value, a personal representative of such deceased recipient shall not be a necessary

1 party to an action to enforce the lien against such recipient's realty. Any funds remaining after  
2 satisfaction of such lien shall be paid into the office of the Clerk of the Superior Court.

3 **"G.S. 108-37. Distribution of funds collected.** The United States and the State of North  
4 Carolina shall be entitled to share in any sum collected under the provisions of this Article, and  
5 their proportionate parts of such sum shall be determined in accordance with the matching  
6 formulas in use during the period for which assistance was paid to the recipient. The county  
7 enforcing the claim as herein provided and any other county within the State which has paid aid  
8 to the aged or disabled assistance to such recipient shall share proratably in any sum collected.  
9 All sums collected shall be deposited in the county aid to aged and disabled fund and a report  
10 of such deposit made to the State Board of Social Services. All sums to which the United States  
11 or the State of North Carolina may become entitled under the provisions of this Article shall be  
12 promptly paid or credited. All such sums to which the State may become entitled shall be  
13 deposited in the State Aid to the Aged and Disabled Fund and shall become a part of that fund.

14 "All necessary costs incurred in the collection of any claim shall be borne proratably by the  
15 United States, the State, and the county in proportion to the share of the sum collected to which  
16 each may be entitled; provided, that neither the United States nor the State shall in any instance  
17 be chargeable for costs in excess of the sum received by it from the claim. Necessary costs of  
18 collection of any claim shall include all costs of services in the filing, processing, investigation,  
19 and collection of such claim."

20 **Sec. 6.** All laws and clauses of laws in conflict with this Act are hereby repealed.

21 **Sec. 7.** This Act shall be effective on and after July 1, 1969.

22 In the General Assembly read three times and ratified, this the 30th day of June,

23 1969.