

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 160

Short Title: Enhance SHP Debt Collection Abilities.-AB (Public)

Sponsors: Senators Krawiec, Burgin, and Perry (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 1, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPROVE THE NORTH CAROLINA STATE HEALTH PLAN FOR  
3 TEACHERS AND STATE EMPLOYEES BY ENHANCING THE PLAN'S ABILITY TO  
4 COLLECT OVERPAYMENTS AND UNPAID PREMIUMS AND PROHIBITING THE  
5 PLAN FROM ALLOWING THIRD PARTIES TO WRITE OFF DEBT OWED TO THE  
6 STATE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** Part 3 of Article 3B of Chapter 135 of the General Statutes is  
9 amended by adding a new section to read:

10 **"§ 135-48.37B. Attachment and garnishment of overpayments and unpaid premiums from**  
11 **individuals no longer employed by employing units.**

12 (a) Applicability. – This section applies to an individual who is no longer employed by  
13 an employing unit and to whom any of the following circumstances apply:

14 (1) An overpayment or erroneous payment of benefits, claims, or other amounts  
15 has been paid on behalf of the individual or individual's dependent by the Plan  
16 and the amount owed had not been repaid to the Plan.

17 (2) Unpaid premiums are owed by the individual for coverage provided by the  
18 Plan to the individual or the individual's dependent.

19 (b) Notice of Amount Due. – The Plan shall provide notice to an individual of the  
20 amounts owed and provide the individual with at least 30 calendar days to respond to the notice  
21 and either (i) repay the amount owed in full or (ii) enter into a payment plan approved by the  
22 Plan for the amount owed.

23 (c) Attachment and Garnishment. – Intangible property that belongs to an individual, is  
24 owed to an individual, or has been transferred by an individual under circumstances that would  
25 permit it to be levied upon if it were tangible property (i) is subject to attachment and garnishment  
26 in payment of an overpayment or erroneous payment or unpaid premium that is due from the  
27 individual and (ii) is collectible under this Article. Intangible personal property includes bank  
28 deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property  
29 incapable of manual levy or delivery.

30 A person who is in possession of intangible property that is subject to attachment and  
31 garnishment is the garnishee and is liable for the amount the individual owes. The liability applies  
32 only to the amount of the individual's property in the garnishee's possession, reduced by any  
33 amount the individual owes the garnishee.

34 Provided any amount due remains unpaid and provided the individual has not entered into a  
35 payment plan approved by the Plan, upon the expiration of the 30 calendar days required by  
36 subsection (b) of this section, the Plan may submit to a financial institution, as defined in



1 G.S. 53B-2, information that identifies an individual who owes an overpayment or erroneous  
2 payment or an unpaid premium that is collectible under this section and the amount due. The  
3 Plan may submit the information on a quarterly basis or, with the agreement of the financial  
4 institution, on a more frequent basis. A financial institution that receives the information must  
5 determine the amount, if any, of intangible property it holds that belongs to the individual and  
6 must inform the Plan of its determination. The Plan must reimburse a financial institution for its  
7 costs in providing the information, not to exceed the amount payable to the financial institution  
8 under G.S. 110-139 for providing information for use in locating a noncustodial parent.

9 No more than ten percent (10%) of an individual's wages or salary is subject to attachment  
10 and garnishment. The wages or salary of an employee of the United States, the State, or a political  
11 subdivision of the State are subject to attachment and garnishment.

12 (d) Notice to Garnishee. – Before the Plan attaches and garnishes intangible property in  
13 payment of an overpayment or erroneous payment or unpaid premium, the Plan must send the  
14 garnishee a notice of garnishment. The notice must be sent either in person, by certified mail with  
15 a return receipt requested, or, with the agreement of the garnishee, by electronic means. The  
16 notice must contain all of the following information:

17 (1) The individual's name.

18 (2) The individual's social security number or federal identification number.

19 (3) The amount of money the individual owes the Plan.

20 (4) An explanation of the liability of a garnishee for the amounts owed.

21 (5) An explanation of the garnishee's responsibility concerning the notice.

22 (e) Action. – A garnishee must comply with a notice of garnishment or file a written  
23 response to the notice within the time set in this subsection. A garnishee that is a financial  
24 institution must comply or file a response within 20 days after receiving a notice of garnishment.  
25 All other garnishees must comply or file a response within 30 days after receiving a notice of  
26 garnishment. A written response must explain why the garnishee is not subject to garnishment  
27 and attachment.

28 Upon receipt of a written response, the Plan must contact the garnishee and schedule a  
29 conference to discuss the response or inform the garnishee of the Plan's position concerning the  
30 response. If the Plan does not agree with the garnishee on the garnishee's liability, the Plan may  
31 proceed to enforce the garnishee's liability for any amounts owed under this section by civil  
32 action.

33 (f) Limitations. – Nothing in this Part shall be construed to limit the Plan's ability to  
34 pursue alternative judicial remedies against an individual, including the pursuit of a judgment  
35 and lien against real property."

36 **SECTION 1.(b)** This section becomes effective October 1, 2021, and applies to  
37 notices of amounts due sent by the Plan on or after that date.

38 **SECTION 2.(a)** Part 3 of Article 3B of Chapter 135 of the General Statutes is  
39 amended by adding a new section to read:

40 **"§ 135-48.37C. Third-party administrator cooperation in collection of amounts owed to**  
41 **Plan.**

42 (a) Notwithstanding any other provision of law, any payment of claims on behalf of the  
43 Plan to a provider of health care services that is later determined to be an overpayment, an  
44 erroneous payment, or an amount for which the provider was ineligible to receive shall be repaid  
45 to the Plan.

46 (b) The requirement of a health care provider to repay the Plan under subsection (a) of  
47 this section shall not be limited by, or subject to, any agreement between a Claims Processor and  
48 the health care provider or any other provision of law that otherwise would negate or limit by  
49 time, quantity, or other means, the ability to repay or recover any amounts owed to the Plan.

50 (c) Any Claims Processor who paid any amounts owed to the Plan under subsection (a)  
51 of this section shall be responsible for recovering those amounts by all commercially reasonable

1 mechanisms, including by offset of future claims payments. Any amounts that cannot be  
2 recovered by the Claims Processor within one year from the date the claim was paid shall be  
3 repaid to the Plan by the Claims Processor.

4 (d) No amount due under this section may be forgiven by a Claims Processor."

5 **SECTION 2.(b)** This section is effective when it becomes law and applies to claims  
6 paid on or after that date.

7 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
8 law.