

Bill as Introduced

HB 499-FN - AS INTRODUCED

2011 SESSION

11-0752

01/03

HOUSE BILL **499-FN**

AN ACT relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.

SPONSORS: Rep. G. Richardson, Merr 4

COMMITTEE: Judiciary

ANALYSIS

This bill clarifies the division of damages and benefits recovered from third persons by employees who have received workers' compensation.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Workers' Compensation; Liability of Third Person. Amend RSA 281-A:13, IV to read as
2 follows:

3 IV. Whenever there is a recovery against a third person under paragraph I, II, or III, the
4 commissioner, the arbitrator, or the superior court, as the case may be, shall order such division of
5 ***the recovery, and*** expenses and costs of action, including attorneys' fees, between the employer or
6 the employer's insurance carrier and the employee as justice may require.

7 2 Effective Date. This act shall take effect upon its passage.

LBAO
11-0752
01/19/11

HB 499-FN - FISCAL NOTE

AN ACT relative to the employer's lien on damagers and benefits recovered from third persons by employees who have received workers' compensation.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from the Department of Labor. When completed, the fiscal note will be forwarded to the House Clerk's Office.

LBAO
11-0752
Revised 02/10/11

HB 499 FISCAL NOTE

AN ACT relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.

FISCAL IMPACT:

The Department of Labor and New Hampshire Association of Counties state this bill may increase state, county and local revenue by an indeterminable amount in FY 2011 and each year thereafter. The Department of Administrative Services states this bill will have an indeterminable fiscal impact on state expenditures and revenue. The New Hampshire Municipal Association states this bill may decrease local expenditures and increase local revenue by an indeterminable amount in FY 2011 and each year thereafter. There is no fiscal impact on county expenditures.

METHODOLOGY:

The Department of Labor states this bill clarifies the division of damages and benefits recovered from third persons by employees who have received workers' compensation. The Department states this bill would only have a fiscal impact on state, county and local government in their role as employers. To the extent this bill results in the recovery of benefits from third persons and some amount of damage is attributed to the employer, there may be an indeterminable increase in state, county and local revenue.

The Department of Administrative Services states under current law the full amount of employer liens must be satisfied but this bill appears to authorize adjudicatory bodies to exercise discretion in allocating third party recoveries to satisfy employer liens as well as the expense associated with the third party action. The Department states this bill will have an indeterminable fiscal impact on state revenue and expenditures.

The New Hampshire Association of Counties states this bill may result in additional funds being distributed to a county as an employer, resulting in an indeterminable increase in county revenue.

The New Hampshire Municipal Association states this bill may result in a reduction in the amount of a workers' compensation carrier's lien on damages recovered by an employee in a civil action against a third party for personal injuries to the employee. The reduction in such

liens may have an indirect impact on rates paid by municipalities for workers' compensation insurance. As employers, municipalities may have increased revenue to the extent this bill results in the recovery of benefits from third persons and some amount of damage is attributed to the municipality.

Amendments



Amendment to HB 499-FN

1 Amend RSA 281-A:13, IV as inserted by section 1 of the bill by replacing it with the following:

2

3 IV. Whenever there is a recovery against a third person under paragraph I, II, or III, the
4 commissioner, the arbitrator, or the superior court, as the case may be, shall order such division of
5 expenses and costs of action, including attorneys' fees, between the employer or the employer's
6 insurance carrier and the employee as justice may require. *In such cases, when the employer is*
7 *at fault, the commissioner, the arbitrator, or the superior court, as the case may be, may, in*
8 *addition, order such division of the recovery between the employer or the employer's*
9 *insurance carrier and the employee as justice may require.*

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 499-FN

BILL TITLE: relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.

DATE: February 24, 2011

LOB ROOM: 208 **Time Public Hearing Called to Order:** 10:33 am

Time Adjourned: 11:25 am

(please circle if present)

Committee Members: Reps. Rowe, Sorge, Souza, Hagan, Silva, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Fregenza, Wheaton, Watt, Potts, Weber and Watrous.

Bill Sponsors: Rep. G. Richardson, Merr 4

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. G. Richardson, sponsor

House Bill 1315 was tabled in the Senate. Workers Compensation – an employee is entitled to benefits for lost wages and medical expenses. Benefits are less than what they would get in a claim. Employee gives up the right to sue employer if benefits are used. Employee can bring claim against anyone involved other than the employer and cannot recover two times for injuries. If receives Workers Compensation, then receives third party claims, must pay back employer. Third party and employer could be at fault and should be held accountable.

If a claim is brought, fault should be aimed at all parties at fault total or partial fault. Employees claim is lessened by percentage employer puts in and third party fee is lessened by employer percent. Employee gets hit with two reductions of claim.

Bill would hold employer partially at fault, to allocate the funding between employee/employer.

Former bill passed House, tabled in the Senate. This could cause workers compensation rates to go up. Vast majority claims have nothing to do with third party claims. Vast majority will have no affect with third party. Those that do have third party include very few where employer is at fault.

Deb Stone, New Hampshire Insurance Department - opposes

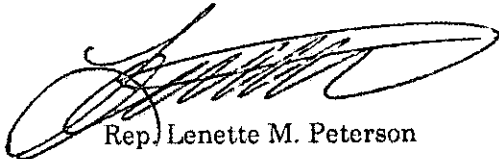
Potential to increase insurance cost. No evidence how much, how often; would have less money in pool to draw from.

***Jared Green, New Hampshire Association for Justice – supports**

Rare cases, but important cases. Small percentage gets full recovery. This bill would give trial judge the right to do justice. Takes into account why and would also take full recovery away from Workers Compensation Association. If employee doesn't get 100%, Workers Compensation should not either.

George Roussos, Domestic Insurance Companies and American Insurance Association - opposes
Employers cost is a concern that this bill would present. Small part of worker compensation. Will
affect employers' premiums. Under existing law, workers compensation insurer has a lien on what
they pay out. That's the basic tradeoff. This bill would unbalance the payoff. This bill says nothing
about "fault." Judge can waive the lien, having nothing to do with who is at fault. Leaves it wide
open towards workers compensation.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Lenette M. Peterson", written in a cursive style.

Rep. Lenette M. Peterson

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 499-FN

BILL TITLE: relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.

DATE: February 24, 2011

LOB ROOM: 208

Time Public Hearing Called to Order: ~~10:30 am~~

10:33 am

Time Adjourned:

11:25 am

(please circle if present)

Committee Members: Reps. ~~Wade~~, Sorg, Souza, Hagan, Silva, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Tregenza, Wheaton, Wall, Potter, Weber and Watrous

Bill Sponsors: Rep. G. Richardson, Merr 4

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Richardson (HB 1315) tabled in Senate
Workers Comp - an employee is entitled to benefits for
lost wages + med. expenses. ~~They~~ Benefits are less than
what they would get in a claim. Employee gives up
right to sue employer if benefits are used. Employee
can bring claim against anyone involved other than employer.
Cannot recover 2x for injuries. If receives workers comp,
then receives 3rd party claims, must pay back employer.
3rd party + employer could be at fault + should be held

Respectfully Submitted,


Rep. Lenette M. Peterson

accountable. If a claim is brought fault should be
aimed at all parties at fault total or partial fault.
Employee's claim is lessened by percentage employer
puts in & 3rd party fee is lessened by employer %
Employee gets hit with 2 reductions of claim.

Bill would hold employer, partially at fault, to allocate
the funding between employee/employer

Former Bill passed house, tabled in senate: could cause
workers comp rates to go up.

Vast majority claims have nothing to do with 3rd party
claims. Vast majority will have no affect w/ 3 party
those that do, ^{have 3rd party} include very few where employer is at
fault.

Deb Stone (O) - potential to increase insurance cost. No
evidence how much, how often, would have
less money in pool to draw from.

Jared Green (S) - rare cases, but important cases. Small
percentage but important %. Injured
workers don't get full recovery, this bill would
give trial judge the right to do justice. Takes
into account why and would also take full
recovery away from Workers Comp Assoc. If
employee doesn't get 100%, W.C. should not either

George Roussos (O) - employers cost is a concern that this bill
would present. Small part of workers
comp. Will affect employers premiums.
Under existing law, W.C. insurer has a lien on what
they pay out, that's the basic tradeoff. This
bill would unbalance the payoff. This bill
says nothing about "fault". Judge can waive
the lien, having nothing to do with who is
at fault. Leaves it wide open towards W.C.

Testimony

New Hampshire Association for Justice
Jared R. Green, Esquire
Abramson, Brown & Dugan
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Manchester, NH 03104
(603) 627-1819
jgreen@arbd.com

POINTS IN SUPPORT OF HB 499

- * A person who is injured on the job is entitled to workers' compensation benefits, which include payment of all injury-related medical bills and payment of 60% of the worker's average weekly wage.
- * The workers' compensation benefits are usually paid by an insurance carrier from whom the employer has purchased an insurance policy.
- * If the worker's injury was caused by the fault of someone other than the employer or his/her co-workers, he/she can file a civil lawsuit against the responsible party to recover damages.
- * An injured worker generally cannot file a civil lawsuit against his/her employer or his co-workers.
- * If an injured worker is able to recover money from a lawsuit against someone other than his/her employer or co-workers, the insurance company that provided workers' compensation benefits to the worker is entitled to reimbursement from the money that the worker obtained from his/her lawsuit.
- * Prior to 2006, a party who was sued by an injured worker could not try to shift the blame for the worker's injury to his/her employer or co-workers.
- * In 2006, our Supreme Court changed the law and ruled that the jury in a lawsuit filed by an injured worker can apportion fault to the worker's employer or co-workers even though the employer and co-workers are immune from being sued. Any part of the fault that is apportioned to the employer or co-workers is uncollectible. Thus, if the defendant is found to be 70% at fault and the employer is found to be 30% at fault, the injured worker only receives 70% of his/her total damages.
- * The 2006 change in the law means that in cases where an injured worker has filed a lawsuit against someone other than his/her employer or co-workers it is very likely that the injured worker will not be awarded full compensation because some measure of fault will almost always be apportioned to his/her employer and/or co-workers.

- * Even though the injured worker probably won't receive full compensation from the liable party and even though the reduction in his/her recovery is a direct result of the fault of his employer and/or co-workers, the law currently requires the worker to reimburse the employer's workers' compensation insurance carrier for the full amount of the benefits it paid.
- * HB 499 would permit the judge in the underlying lawsuit to determine whether it is fair for the employer's workers' compensation insurance carrier to obtain full reimbursement under the circumstances of each individual case. For example, if HB 499 is enacted, the injured worker could argue to the judge that he/she only received 70% of his/her total damages because of the employer's fault so the employer's workers' compensation carrier should only receive reimbursement of 70% of the benefits the carrier paid out.
- * HB 499 is necessary because of the Supreme Court's 2006 change in the law and it simply gives the trial judge discretion to consider all of the facts and circumstances of each individual case and decide the fairest way to handle the workers' compensation carrier's right to reimbursement.

Sulloway & Hollis

P.L.L.C.
COUNSELORS AT LAW

REPLY TO: CAPITAL OFFICE
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March 4, 2011

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MAINE, VERMONT, FLORIDA,
MASSACHUSETTS, NEW YORK,
AND OTHER STATES

Representative Brandon Guida
House of Representatives
Legislative Office Building
33 North State Street
Concord, NH 03301-6328

Re: HB 499-FN

Dear Representative Guida:

Thank you for the opportunity to comment on the amendment to HB 499-FN, which would allow a reduction of a workers' compensation lien based on an employer's fault. I am not making these comments on behalf of any client of our firm. I have represented employers and workers' compensation carriers in thousands of workers' compensation cases, including cases involving recovery of liens where third-party claims have been filed. I would strongly recommend that your committee find the proposed legislation inexpedient to legislate.

The current bill represents a series of attempts to undercut the New Hampshire Supreme Court's decision in *DeBenedetto v. CLD Consulting Engineers, Inc.*, 153 N.H. 793 (2006). In that case, the Supreme Court held, interpreting RSA 507:7-e, that if a particular defendant was less than 50% at fault, that defendant could only be liable for its proportionate share of the verdict. It could not be held liable for the entire verdict. As the Court explained in its opinion, there is nothing fair about requiring a defendant who is 10% at fault to pay 100% of a loss. In *DeBenedetto* and subsequent cases, the Court has made clear that in order to apportion fault, all of the parties who were potentially at fault in causing an accident need to be included in the apportionment calculation, including defendants who have settled out before the case is tried and defendants who are immune from suit, including, most importantly, an employer who cannot be sued because of workers' compensation immunity. Various legislation has been introduced to change the result of *DeBenedetto* which has either been rejected by the legislature so far, or, in one instance vetoed by Governor Lynch.

New Hampshire's workers' compensation statute, like those of virtually every other state in the United States, was designed to eliminate concepts of fault from the

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March 4, 2011

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award of benefits for work related injuries in order to provide certainty, a speedy recovery, and efficiency as an alternative to protracted litigation. The only relevant consideration in a workers' compensation case is whether the injury arises out of or in the course of employment. Workers' compensation insurance is mandatory in New Hampshire and for most employers is the most expensive insurance they buy. Insurance premiums are usually directly proportional to an employer's payroll. In occupations with high risk of exposure to accidents, such as construction, heavy manufacturing, and logging, insurance premiums can be a significant additional cost to hiring an employee.

One of the ways in which the cost of workers' compensation insurance is reduced is through RSA 281-A:13 which provides that an employer or the employer's workers' compensation insurer has an absolute right to recover a lien for benefits paid if there is a recovery from a third party. The most frequent claims against third parties involve automobile accidents, suits against premises owners where an accident may have occurred due to unsafe conditions, or defective products and machinery. Under RSA 281-A:13, I (b), the statute provides that the employer or the employer's insurance carrier "shall" have a lien on any benefits "recovered" by the employee. The employer is obligated to share on a pro rata basis with the employee any costs of suit, which include attorney's fees.

The provision in RSA 281-A:13, I (b) is somewhat contradicted by RSA 2812-A:13, IV, the statute which is sought to be amended here, which provides that a Court, the labor commissioner, or an arbitration may divide expenses and attorney's fees between the employer and its insurance carrier and the employee "as justice may require." As a practical matter, courts order that a pro rata distribution is a fair and equitable way of dividing fees and expenses. In one instance, the First Circuit Court of Appeals actually reversed a Federal District Court in New Hampshire where the court had charged all the fees and costs to the employer because the employer refused to compromise its lien to facilitate a settlement.

The present proposal seeks to significantly alter these long-standing principals. Under the proposed amendment, the court, an arbitrator, or the labor commissioner would now have the authority to allocate a lien recovery based upon fault, so that if an employer were at fault in causing an accident, its lien would be reduced (and thus the employee's recovery increased). This proposal will increase the cost of litigation in workers' compensation cases, reduce lien recoveries, and overall increase employers' costs in this state of buying workers' compensation insurance. As this proposal also applies to workers' compensation programs of the State of New Hampshire and municipalities, it will directly increase governmental expense.

Because workers' compensation is a no-fault system, employers and workers' compensation insurers do not incur the expense of the discovery which is necessary to determine issues regarding fault which usually includes depositions, document requests, and retention of experts. Under the proposed amendment, the employer and its workers' compensation carrier will now be forced to participate in this process, including the trial of the

March 4, 2011

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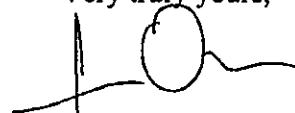
case. This cost will ultimately be born directly by employers. In essence, the workers' compensation carrier or the employer will now be forced to deflect arguments by other parties that the employer is at fault. Further, as written, the amendment proposes that the "commissioner" would assign fault if a case is resolved before litigation. The Department of Labor has no ability to make such determinations, which presumably would result in lengthy hearings and appeals regarding fault issues at the Department of Labor.

The amendment will create uncertainty regarding an employer or carrier's rights to recover a lien. The existence of this amendment, even where employer fault is doubtful, will lead to leverage by attorneys to reduce liens when cases are being settled, as most do.

The amendment is also overbroad. As described in *DeBenedetto*, an employer's fault and the apportionment of damages may have no effect on a plaintiff's ability to recover full damages. The employer's fault would only be relevant if for some reason the addition of the employer's fault to the equation pushed an individual defendant's liability below 50% so that the plaintiff could not obtain a complete recovery against a target defendant.

For the reasons outlined here, this is poor legislation which will increase the overall cost of the workers' compensation system to benefit a small number of individuals.

Very truly yours,



James E. Owers

JEO:grl

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HOUSE BILL 499-FN

BILL TITLE: relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.

DATE: March 9, 2011

LOB ROOM: 208

Amendments:

Sponsor: Rep. L. Weber

OLS Document #: 2011 0522h

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. L. Weber

Seconded by Rep. R. Watrous

Vote: 14-3 (Please attach record of roll call vote.)

Motions: ITL, ~~OTP~~, ~~OTP/A~~, ~~ITL~~, Interim Study (Please circle one.)

Moved by Rep. L. Weber

Seconded by Rep. F. Potter

Vote: 3-14 (Please attach record of roll call vote.)

Motions: ~~OTP~~, ~~OTP/A~~, ITL, Interim Study (Please circle one.)

Moved by Rep. G. Wheaton

Seconded by Rep. B. Palmer

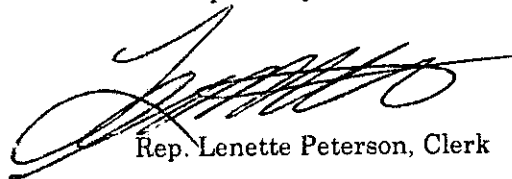
Vote: 14-3

CONSENT CALENDAR VOTE: YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep. Lenette Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 499

BILL TITLE: relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.

DATE: 3/9/11

LOB ROOM: 208

#1
Amendments:

Sponsor: Rep. Weber

OLS Document #: 05224

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. Watrous

Vote: 14-3 (Please attach record of roll call vote.)

#2
Motions: OTP, OTP/A ITL, Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. Potter

Vote: 3-14 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep. Lenette Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 499

BILL TITLE: relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.
DATE: March 9, 2011
LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Wheaton*

Seconded by Rep. *Palmer*

Vote: *14-3* (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted
[Signature]
Rep. Lenette Peterson, Clerk

JUDICIARY

Bill #: HB 499

Title: relative to the employer's lien on damages

PH Date: / /

Exec Session Date: / /

Motion: OT P 0522h

Amendment #:

MEMBER	YEAS	NAYS
Rowe, Robert H, Chairman	✓	
Sorg, Gregory M, V Chairman	—	—
Souza, Kathleen F	✓	
Hagan, Joseph M Copeland	✓	
Silva, Peter L	✓	
Andolina, Donald C	✓	
Giuda, J. Brandon	✓	
LaCasse, Paul D		✓
McClarren, Donald B		✓
Murphy, Brian JX	✓	
Palmer, Barry J		✓
Peterson, Lenette M	✓	
Tregenza, Norman A	✓	
Wheaton, Gary W	✓	
Wall, Janet G	✓	
Potter, Frances D	✓	
Weber, Lucy M	✓	
Watrous, Rick H	✓	
	14	3
TOTAL VOTE:		

JUDICIARY

Bill #: HB 499 Title: _____

PH Date: ____/____/____ Exec Session Date: ____/____/____

Motion: OTPA 0522h Amendment #: _____

MEMBER	YEAS	NAYS
Rowe, Robert H, Chairman		✓
Sorg, Gregory M, V Chairman	—	—
Souza, Kathleen F		✓
Hagan, Joseph M <i>Copeland</i>		✓
Silva, Peter L		✓
Andolina, Donald C		✓
Giuda, J. Brandon		✓
LaCasse, Paul D		✓
McClarren, Donald B		✓
Murphy, Brian JX		✓
Palmer, Barry J		✓
Peterson, Lenette M		✓
Tregenza, Norman A		✓
Wheaton, Gary W		✓
Wall, Janet G	✓	
Potter, Frances D	✓	
Weber, Lucy M	✓	
Watrous, Rick H		✓
	3	14
TOTAL VOTE:		

JUDICIARY

Bill #: HB 499 Title: _____PH Date: 1/1/11Exec Session Date: 1/1/11Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Rowe, Robert H, Chairman	✓	
Sorg, Gregory M, V Chairman	—	—
Souza, Kathleen F	✓	
Hagan, Joseph M <i>Copeland</i>	✓	
Silva, Peter L	✓	
Andolina, Donald C	✓	
Giuda, J. Brandon	✓	
LaCasse, Paul D	✓	
McClarren, Donald B	✓	
Murphy, Brian JX	✓	
Palmer, Barry J	✓	
Peterson, Lenette M	✓	
Tregenza, Norman A	✓	
Wheaton, Gary W	✓	
Wall, Janet G		✓
Potter, Frances D		✓
Weber, Lucy M		✓
Watrous, Rick H	✓	
	14	3
TOTAL VOTE:		

Committee Report

REGULAR CALENDAR

March 10, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on JUDICIARY to which was referred

HB 499-FN,

AN ACT relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation. Having considered the same, report the same with the following Resolution: **RESOLVED,**
That it is **INEXPEDIENT TO LEGISLATE.**

Rep. Gary W Wheaton

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	JUDICIARY
Bill Number:	HB 499-FN
Title:	relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation.
Date:	March 10, 2011
Consent Calendar:	NO
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill clarifies the division of damages and benefits received from third persons by employees who have received workers' compensation. A court, arbitrator or the commissioner of labor would now have the authority to allocate a lien recovery based upon fault, so that if an employer were at fault in causing the accident, its lien would be reduced as justice may require. While the committee believes that the provisions of this bill would apply only in a small number of workers' compensation cases, it further believes that the effects would cause workers' compensation insurance rates to disproportionately increase. The committee is also concerned with introducing the concept of fault to the workers' compensation scheme which is designed to be a no-fault system. For these reasons, the majority of the committee recommends inexpedient to legislate.

Vote 14-3.

Rep. Gary W Wheaton
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB 499-FN, relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation. **INEXPEDIENT TO LEGISLATE.**

Rep. Gary W Wheaton for JUDICIARY. This bill clarifies the division of damages and benefits received from third persons by employees who have received workers' compensation. A court, arbitrator or the commissioner of labor would now have the authority to allocate a lien recovery based upon fault, so that if an employer were at fault in causing the accident, its lien would be reduced as justice may require. While the committee believes that the provisions of this bill would apply only in a small number of workers' compensation cases, it further believes that the effects would cause workers' compensation insurance rates to disproportionately increase. The committee is also concerned with introducing the concept of fault to the workers' compensation scheme which is designed to be a no-fault system. For these reasons, the majority of the committee recommends inexpedient to legislate. **Vote 14-3.**

Original: House Clerk
Cc: Committee Bill File

HB 499 Inexpedient to Legislate ITL Wheaton

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A handwritten signature in black ink, appearing to be 'BWA', is located in the lower right quadrant of the page.

This bill clarifies the division of duties & benefits received from third persons by employees who have received workers' compensation. A court, arbitrator or the Concurrence of Labor will now have the authority to allocate a line of work based upon fault, so that if an employer is at fault in causing the accident, it will be held, as justice may require. While the committee believes that the provisions of this bill will apply only in a small number of workers' compensation cases, it further believes that the effects will cause workers' compensation insurance rates to disproportionately increase. The committee is also concerned with relating the concept of fault to the workers' compensation ^{system} ~~system~~ which is designed to be a no-fault system. For these reasons, the majority of the committee recommends amendment to the bill.