

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 224
Committee Substitute Favorable 3/22/23

Short Title: Protect NC Opioid Settlement Payments.

(Public)

Sponsors:

Referred to:

March 2, 2023

A BILL TO BE ENTITLED
AN ACT PROTECTING NATIONAL OPIOID SETTLEMENT PROCEEDS FOR NORTH
CAROLINA AND ITS UNITS OF LOCAL GOVERNMENT BY PROHIBITING THE
ASSERTION OF ANY RELEASED CLAIMS AGAINST ANY RELEASED ENTITIES
PURSUANT TO THE FINAL CONSENT JUDGMENTS RESOLVING THIS
LITIGATION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 122C of the General Statutes is amended by adding a new
Article to read:

"Article 7.

"Legislative Release to Protect National Opioid Settlement Payments.

"§ 122C-470.2. Definitions.

Definitions. – The following definitions apply in this Article:

- (1) Initial Opioid Consent Judgments. – The final consent judgments, including all exhibits, resolving the following cases in the General Court of Justice, Superior Court Division, Wake County:

 - a. State of North Carolina, ex rel. Joshua H. Stein, Attorney General v. McKesson Corporation; Cardinal Health, Inc.; and AmerisourceBergen Corporation, No. 22CV4020.
 - b. State of North Carolina, ex rel. Joshua H. Stein, Attorney General v. Johnson & Johnson; Janssen Pharmaceuticals, Inc.; Ortho-McNeil-Janssen Pharmaceuticals, Inc.; and Janssen Pharmaceutica, Inc., No. 22CV4244.
- (2) Initial Released Claim. – Any claim defined as Released Claims in the Initial Opioid Consent Judgments.
- (3) Initial Released Entity. – Any entity defined as Released Entities in the Initial Opioid Consent Judgments, including Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc., McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation.
- (4) Initial Settling Opioid Defendants. – Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc., McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation.
- (5) State. – The State of North Carolina and includes every public office, public officer or official (elected or appointed), institution, board, commission,



bureau, council, department, or authority or other unit of government of the State.

(6) Subsequent Opioid Settlement Agreements. – The national opioid settlement agreement announced in November and December 2022, with the Subsequent Settling Opioid Defendants.

(7) Subsequent Released Claim. – Any claim defined as Released Claims in the Subsequent Opioid Settlement Agreements.

(8) Subsequent Released Entity. – Any entity defined as Released Entities in the Subsequent Opioid Settlement Agreements, including Walmart, Inc., Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Allergan Limited, CVS Health Corporation, CVS Pharmacy, Inc., and Walgreen Co.

(9) Subsequent Settling Opioid Defendants. – Walmart, Inc., Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Allergan Limited, CVS Health Corporation, CVS Pharmacy, Inc., and Walgreen Co.

(10) Unit of Local Government. – Every public office, public officer or official (elected or appointed), institution, board, commission, bureau, council, department, or authority or other unit of government of any county, unit, special district, or other political subdivision of government, including, but not limited to, a county; city; consolidated city-county; local school administrative unit; community college; area mental health, developmental disabilities, and substance abuse authority; nonprofit corporation or association operating or leasing a public hospital; public health authority; water or sewer authority; metropolitan sewerage district; sanitary district; county water and sewer district; metropolitan water district; metropolitan water and sewerage district; airport authority; airport board or commission; regional natural gas district; regional transportation authority; regional public transportation authority; ferry transportation authority; a special district created under Article 43 of Chapter 105 of the General Statutes; or any other local or regional authority, district, board, commission, or administrative unit.

"§ 122C-470.4. Legislative findings.

The General Assembly makes the following findings:

(1) The opioid epidemic has taken the lives of more than 32,000 North Carolinians, caused immeasurable suffering and harm, and imposed substantial costs on the State, counties, municipalities, healthcare and social service providers, residents, and others.

(2) The epidemic was fueled by misconduct on the part of the Initial Settling Opioid Defendants and other companies engaged in the manufacture, marketing, promotion, distribution, or dispensing of prescription opioid medications.

(3) The State, through its Attorney General, engaged in investigations, litigation, and settlement discussions involving the Initial Settling Opioid Defendants, Subsequent Settling Opioid Defendants, and 76 counties and eight municipalities, through their counsel, filed lawsuits against at least one of the Initial Settling Opioid Defendants or Subsequent Settling Opioid Defendants seeking to hold them accountable for the damage caused by their misconduct.

(4) On July 21, 2021, a national coalition of states and political subdivisions announced agreements with the Initial Settling Opioid Defendants to resolve legal claims against those companies stemming from actions that fueled the opioid epidemic.

(5) The State, all 100 counties, and 47 municipalities in North Carolina have formally joined the agreements with the Initial Settling Opioid Defendants.

On March 11, 2022, all of North Carolina's litigating counties and municipalities dismissed their lawsuits against the Initial Settling Opioid Defendants. On April 6 and April 26, 2022, the General Court of Justice, Superior Court Division, Wake County, entered the Initial Opioid Consent Judgments making the agreements with the Initial Settling Opioid Defendants effective in North Carolina.

(6) The Initial Opioid Consent Judgments provide for payments of up to twenty-six billion dollars (\$26,000,000,000) over 18 years, with more than twenty-three billion nine hundred million dollars (\$23,900,000,000) available to fund state and local efforts to address the opioid epidemic nationwide.

(7) Pursuant to the Initial Opioid Consent Judgments, North Carolina's share of the payments is up to approximately seven hundred fifty million dollars (\$750,000,000) over 18 years. North Carolina's share of the payments will be distributed among the State and its Units of Local Government pursuant to a Memorandum of Agreement, to which the State and more than 140 Units of Local Government have agreed. The Memorandum of Agreement was approved through the Initial Opioid Consent Judgments and establishes the means by which payments will be distributed in North Carolina.

(8) In November and December 2022, a national coalition of states and political subdivisions announced agreements with the Subsequent Settling Opioid Defendants to resolve legal claims against those companies stemming from actions that fueled the opioid epidemic.

(9) The settlements with the Subsequent Settling Opioid Defendants are contingent on the participation of a critical mass of states and political subdivisions. The State has formally notified all Subsequent Settling Opioid Defendants of its intent to join the Subsequent Opioid Settlement Agreements. Units of Local Government have an opportunity to formally join the Subsequent Opioid Settlement Agreements in early 2023.

(10) The Subsequent Opioid Settlement Agreements provide for payments of up to twenty billion four hundred million dollars (\$20,400,000,000) over 15 years. North Carolina's share of the payments is up to approximately six hundred million dollars (\$600,000,000). It is expected that North Carolina's share of the payments will be distributed among the State and its Units of Local Government pursuant to a supplemental agreement for additional funds, to which the State has agreed, and which Units of Local Government have the opportunity to approve in early 2023. This money is available to fund State and local efforts to address the opioid epidemic nationwide.

(11) North Carolina and its Units of Local Government can secure the full one billion three hundred fifty million dollars (\$1,350,000,000) available under the Initial Opioid Consent Judgments and Subsequent Opioid Settlement Agreements only if opioid litigation in North Carolina asserting Initial Released Claims against Initial Released Entities and Subsequent Released Claims against Subsequent Released Entities comes to an end with no new claims. Newly filed Initial Released Claims against Initial Released Entities, or newly filed Subsequent Released Claims against Subsequent Released Entities, would frustrate the purposes of the agreements, would put North Carolina's share of the payments at risk, and would harm the people of North Carolina, all Units of Local Government, and the State.

"§ 122C-470.6. Legislative intent.

It is the intent of this Article to prevent the assertion of Initial Released Claims and Subsequent Released Claims against Initial Released Entities and Subsequent Released Entities

by the State and its Units of Local Government, and thereby to help secure, on behalf of North Carolina's Units of Local Government, the State, and the people of North Carolina, the full share to which the State, its Units of Local Government, and its people are otherwise entitled under the Initial Opioid Consent Judgments and the Subsequent Opioid Settlement Agreements.

"§ 122C-470.8. Prohibition on assertion of Released Claims against Released Entities.

Neither a Unit of Local Government nor the State may assert any Initial Released Claims against Initial Released Entities, or any Subsequent Released Claims against Subsequent Released Entities. Notwithstanding this section, the State, as expressly contemplated in the Subsequent Opioid Settlement Agreements, may initiate civil actions asserting Subsequent Released Claims against Subsequent Released Entities for the purpose of obtaining consent judgments that effectuate the Subsequent Opioid Settlement Agreements, including the release of such claims.

"§ 122C-470.10. Preservation of remedies.

This Article preserves all remedies the State or any Unit of Local Government may have under the Initial Opioid Consent Judgments and Subsequent Opioid Settlement Agreements. Nothing in this Article shall be construed to limit or otherwise affect such remedies."

SECTION 2. G.S. 122C-470.8 applies to all Initial Released Claims, as defined in G.S. 122C-470.2, whether originally asserted before or after the effective date of this act.

SECTION 3. G.S. 122C-470.8 applies to all Subsequent Released Claims, as defined in G.S. 122C-470.2, whether originally asserted before or after the effective date of this act, except that G.S. 122C-470.8 does not apply to Subsequent Released Claims against Subsequent Released Entities that were included in any lawsuits filed by a Unit of Local Government prior to November 1, 2022. If the Subsequent Opioid Settlement Agreements with respect to all of the Subsequent Settling Opioid Defendants are not entered as consent judgments by the Superior Court of Wake County by December 31, 2023, then, beginning on January 1, 2024, G.S. 122C-470.8 shall only apply to Subsequent Released Claims against Subsequent Released Entities covered by a consent judgment approved by a North Carolina court of competent jurisdiction.

SECTION 4. This act is effective when it becomes law.