

Bill No. SB 1638

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Rossin moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

Section 1. Section 1 of chapter 57-1688, Laws of Florida, is amended to read:

Section 1. Every individual, partnership, firm, association, corporation, institution and governmental unit, and every combination of any of the foregoing, operating a ~~public~~ hospital in Palm Beach County, Florida, which provided charity care as defined in section 395.401(1)(b), Florida Statutes, for at least 10 percent of its patients in each of the 3 preceding calendar years, shall be entitled to a lien for all reasonable charges for hospital care, treatment and maintenance of ill or injured persons upon any and all causes of action, suits, claims, counterclaims and demands accruing to the persons to whom such care, treatment or maintenance are furnished, or accruing to the legal representatives of such persons, and upon all judgments, settlements and settlement

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1 agreements rendered or entered into by virtue thereof, on
2 account of illness or injuries giving rise to such causes of
3 action, suits, claims, counterclaims, demands, judgment,
4 settlement or settlement agreement and which necessitate or
5 shall have necessitated such hospital care, treatment and
6 maintenance.

7 Section 4. No release or satisfaction of any action,
8 suit, claim, counterclaim, demand, judgment, settlement or
9 settlement agreement, or any of them, shall be valid or
10 effectual as against such lien unless such lienholder shall
11 join therein or execute a release of such lien. Any acceptance
12 of a release or satisfaction of any such cause of action,
13 suit, claim, counterclaim, demand or judgment and any
14 settlement of any of the foregoing in the absence of a
15 release, order of equitable distribution, or satisfaction of
16 the lien referred to in this Act shall prima facie constitute
17 an impairment of such lien, and the lienholder shall be
18 entitled to an action at law for damages on account of such
19 impairment, and in such action may recover from the one
20 accepting such release or satisfaction or making such
21 settlement the reasonable cost of such hospital care,
22 treatment and maintenance, not exceeding the amount of the
23 total consideration paid such person for the release or
24 satisfaction. Satisfaction of any judgment rendered in favor
25 of the lienholder in any such action shall operate as a
26 satisfaction of the lien. Any action by the lienholder shall
27 be brought in the court having jurisdiction of the amount of
28 the lienholder's claim and may be brought and maintained in
29 the county wherein the lienholder has his, its or their
30 residence or place of business. If the lienholder shall
31 prevail in such action, the lienholder shall be entitled to

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1 recover from the defendant, in addition to costs otherwise
2 allowed by law, all reasonable attorney's fees and expenses
3 incident to the matter. Where the total amount received,
4 through settlement or judgment, is equal to or greater than
5 the sum of all medical expenses and the reasonable costs of
6 litigation, including the contractual attorney's fee due to
7 the patient's attorney, then the hospital lien shall be paid
8 in full and shall be released by the hospital. When the total
9 amount received, through settlement or judgment, is less than
10 the sum of all medical expenses and the reasonable costs of
11 litigation, including the contractual attorney's fee due to
12 the patient's attorney, then the claimant and the hospital
13 have a statutory duty to negotiate in good faith an equitable
14 distribution of the proceeds of the settlement or judgment. If
15 the parties are unable to agree on an equitable distribution
16 of the proceeds, the claimant and the hospital shall
17 participate in mediation. If mediation produces no agreement,
18 the court may equitably distribute the proceeds of the
19 judgment or settlement between the hospital, patient, and
20 patient's attorneys, notwithstanding the lien created by this
21 act. In equitably distributing the proceeds, the court shall
22 give consideration to the reasonable costs of litigation and
23 any offset in the amount of settlement or judgment for any
24 comparative negligence of the claimant.

25 (1) The judge may consider the following with regard
26 to the attorney fees:

27 (a) The time and labor required, the novelty and
28 difficulty of the questions involved, and the skill requisite
29 to perform the legal service properly.

30 (b) The fee customarily charged in the locality for
31 similar legal services.

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1 (c) The amount involved in the controversy and the
2 benefits resulting to the patient.

3 (d) The time limitation imposed by the patient or the
4 circumstances.

5 (e) The experience, reputation, and ability of the
6 attorney or attorneys performing services.

7 (f) The contingency or certainty of a fee.

8 (g) Any other mitigating factors which the court deems
9 equitable and appropriate under the circumstances.

10 (2) The judge may consider the following with regard
11 to the hospital lien:

12 (a) The entire episode of care rendered to the
13 patient.

14 (b) Severity of the case.

15 (c) Emergency services delivered.

16 (d) Inpatient and outpatient care.

17 (e) Surgery or multiple surgeries.

18 (f) Work-up and follow-up care.

19 (g) Secondary or repeat admissions.

20 (h) Physician's services.

21 (i) Psychiatric evaluation and treatment.

22 (j) Any other mitigating factors which the court deems
23 equitable and appropriate under the circumstances.

24
25 The court's decision regarding equitable distribution shall be
26 full and final with respect to the proceeds of the judgment or
27 settlement and the lien created by this act. The court's
28 decision with respect to the proceeds of the judgment or
29 settlement will not extinguish the debt owed to the hospital
30 unless the debt is paid in full.

31 Section 2. For purposes of this section, the

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1 reasonable charges of the hospital shall be determined by
2 reducing the patient's reasonable charges by the amount paid
3 by the patient's health insurance or any other reimbursement
4 paid to the hospital on behalf of the patient. The reasonable
5 charges may not exceed the amount to which the hospital would
6 be legally entitled of the itemized patient reasonable
7 charges.

8 Section 3. If the patient is covered by Medicare or
9 Medicaid, the hospital lien may not exceed 75 percent of the
10 itemized patient reasonable charges due to the hospital. This
11 section shall not apply to any funds recovered by the hospital
12 from the Palm Beach County Hospital District or any state
13 general revenue funds.

14 Section 4. A patient or the patient's attorney shall
15 send to a hospital providing services subject to this section,
16 by certified or registered mail, notification of patient's
17 intent to claim damages from the tortfeasor or any other third
18 party. If the patient has filed suit against the tortfeasor at
19 the time such notice is sent, a copy of the complaint against
20 the tortfeasor should be sent along with such notice. Such
21 notice must include a statement that the hospital will waive
22 any right to its lien unless it provides the patient or
23 patient's attorney a statement asserting said lien and setting
24 forth the amount claimed to be due within 45 days following
25 receipt of the patient's notification to the hospital. If a
26 hospital lien has been filed when the hospital receives a
27 patient's notice of intent to claim damages, the hospital
28 shall notify the patient or patient's attorney that such lien
29 has been filed.

30 Section 5. Nothing in this act precludes the hospital
31 and the patient from negotiating an agreement as to the

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1 distribution of the proceeds of the settlement or judgment.

2 Section 6. This act shall stand repealed on July 1,
3 2001, unless reviewed and saved from repeal through
4 reenactment by the Legislature.

5 Section 7. This act shall take effect July 1, 1999,
6 and shall apply to causes of action accruing on or after that
7 date.

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10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 Delete everything before the enacting clause

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14 and insert:

15 A bill to be entitled
16 An act relating to Palm Beach County; amending
17 chapter 57-1688, Laws of Florida, relating to
18 hospital liens; providing for negotiations,
19 mediation, or equitable distribution; providing
20 that the act applies to any hospital in the
21 county; providing a sunset review date;
22 providing an effective date.

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