

By the Committee on Judiciary and Senators Grant, Sebesta, Lee and Hargrett

308-1981-99

1 A bill to be entitled
2 An act relating to Hillsborough County;
3 amending s. 1 of chapter 98-499, Laws of
4 Florida; requiring that a hospital in
5 Hillsborough County bill the insurer or other
6 payor of third-party benefits prior to
7 recording a lien; providing exceptions;
8 providing for distribution of a patient's
9 recovery from a third party; requiring that the
10 board of county commissioners of Hillsborough
11 County revise any ordinance adopted under
12 chapter 98-499, Laws of Florida, to incorporate
13 amendments made to the chapter 98-499, Laws of
14 Florida; repealing chapter 98-499, Laws of
15 Florida, unless the board of county
16 commissioners enacts an ordinance authorizing
17 liens to enforce payment for the medical care
18 of residents of Hillsborough County; providing
19 an effective date and an expiration date.

21 Be It Enacted by the Legislature of the State of Florida:

23 Section 1. Section 1 of chapter 98-499, Laws of
24 Florida, is amended to read:

25 Section 1. The board of county commissioners of
26 Hillsborough County may provide by ordinance for liens in
27 favor of all operators of hospitals in Hillsborough County and
28 in favor of Hillsborough County when it pays for medical care,
29 treatment, or maintenance of qualifying residents of the
30 county upon all causes of action, suits, claims,
31 counterclaims, and demands accruing to persons to whom care,

1 treatment, or maintenance is furnished by such hospital or is
2 paid for by Hillsborough County on behalf of a qualifying
3 resident of the county, or accruing to the legal
4 representatives of such persons, and upon all judgments,
5 settlements, and settlement agreements entered into by virtue
6 thereof on account of illness, injury, deformity, infirmity,
7 abnormality, disease, or pregnancy giving rise to such causes
8 of action, suits, claims, counterclaims, demands, judgments,
9 settlements, and settlement agreements, and which necessitated
10 such care, treatment, or maintenance; and may provide by
11 ordinance for the attachment, perfection, priority, and
12 enforcement of such liens and for such procedural and other
13 matters ~~as may be necessary or appropriate~~ to carry out the
14 purposes of the ordinance. If the patient is covered by or is
15 a beneficiary of commercial, nongovernmental health insurance
16 coverage through a health maintenance organization or other
17 nongovernmental entity that is under contract with the
18 hospital to provide care to the patient at the time care and
19 treatment are delivered, ~~then~~ the lien shall be limited to the
20 covered charges in effect at the time care and treatment were
21 delivered, and the lien may ~~shall~~ not exceed the amount that
22 the hospital has contracted to accept from all sources for the
23 care and treatment of the patient. The hospital may not record
24 a lien unless the insurer or other payor of third-party
25 benefits, including the Medicaid or Medicare programs and the
26 County Indigent Health Care Plan, has been billed for the
27 covered charges, unless state or federal law or rules or
28 contract require the hospital to seek reimbursement from a
29 third party prior to billing the insurer, health plan, or
30 program. The hospital must accept the contract amount in
31 payment for the covered services, including the contract

1 amount provided under the Medicaid or Medicare programs,
2 unless the patient received level I trauma center services, or
3 the County Indigent Health Care Plan. The lien shall be for an
4 amount that the court may determine to be the hospital's pro
5 rata share for the debt owed the hospital for medical care,
6 treatment, or maintenance furnished by such hospital, less its
7 pro rata share of court costs expended by the plaintiff in the
8 prosecution of the suit, including reasonable attorney's fees
9 for the plaintiff's attorney. In determining the hospital's
10 pro rata share of those costs and attorney's fees, the
11 hospital shall have deducted from its recovery a percentage
12 amount equal to the percentage of the judgment or settlement
13 which is for costs and attorney's fees. Subject to this
14 deduction, the hospital shall recover from the judgment or
15 settlement, after costs and attorney's fees incurred by the
16 patient or patient's representative in that suit have been
17 deducted, 100 percent of the debt owed the hospital, except
18 that, if the patient or the patient's representative
19 demonstrates to the court that he or she did not recover full
20 value of damages sustained, the hospital shall recover from
21 the judgment or settlement, after costs and attorney's fees
22 incurred by the patient or patient's representative in that
23 suit have been deducted, a percentage of the debt owed the
24 hospital equal to the percentage that the patient's net
25 recovery is of the full value of the patient's damages.~~In the~~
26 ~~event of a claim or action by the patient against a third~~
27 ~~party for which the settlement or judgment is less than or~~
28 ~~equal to a sum of the debt actually due and owing the~~
29 ~~hospital, the settlement or judgment will be equitably~~
30 ~~distributed based on the pro rata reduction in the amount due~~
31 ~~the hospital and the patient, including a pro rata reduction~~

1 ~~in the amount of reasonable attorney's fees and costs due the~~
2 ~~patient's attorney on that portion of the settlement or~~
3 ~~judgment attributable to the hospital lien. In the event of a~~
4 ~~claim or action by the patient against a third party for which~~
5 ~~the settlement or judgment exceeds the debt actually due and~~
6 ~~owing the hospital but is not adequate to cover the amount~~
7 ~~actually due and owing the hospital, as well as the patient's~~
8 ~~attorney's fees, then the settlement or judgment will be~~
9 ~~equitably distributed based on a pro rata share of the amount~~
10 ~~due the hospital and the patient, including a pro rata share~~
11 ~~for the amount of reasonable attorney's fees and costs due the~~
12 ~~patient's attorney and the hospital's attorney. In the event~~
13 ~~litigation is filed to recover a plaintiff's damages through~~
14 ~~settlement or judgment, then the hospital's lien actually~~
15 ~~collected shall be subject to assessment, by reduction, for~~
16 ~~plaintiff's attorney's fees, which for the lien assessment~~
17 ~~shall be capped at 25 percent. Any ordinance adopted by~~
18 ~~Hillsborough County under this act must grant, without~~
19 ~~exception, both to every hospital operating in the county and~~
20 ~~to the County Indigent Health Care Plan the identical~~
21 ~~remedies.~~

22 Section 2. The board of county commissioners of
23 Hillsborough County shall revise any ordinance adopted
24 pursuant to chapter 98-499, Laws of Florida, to incorporate
25 the amendments made by this act to chapter 98-499, Laws of
26 Florida.

27 Section 3. Chapter 98-499, Laws of Florida, and this
28 act are repealed on October 1, 1999, unless the board of
29 county commissioners of Hillsborough County enacts an
30 ordinance before that date in accordance with the statutory
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1 provisions of Section 1 of chapter 98-499, Laws of Florida as
2 amended by this act.

3 Section 4. This act shall take effect upon becoming a
4 law.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 SB 2578

9 The committee substitute permits the hospital lien ordinance
10 adopted by the county commission of Hillsborough County to
11 allow collection from third parties prior to filing a claim
with an insurer or payor of third-party benefits when required
by state or federal law or rules or a contract.

12 The committee substitute requires the ordinance to provide
13 that any lien entitles the hospital to a pro-rata share of any
14 settlement or judgment obtained by the patient. The hospital
15 will pay a pro rata share of attorney fees and costs and then
16 receive as payment on the debt a pro rata share of the
17 proceeds.

18 Finally, the bill provides that chapter 98-499, L.O.F., and
19 the provisions of this act are to be repealed on October 1,
20 1999 instead of July 1, 1999 unless the board of county
21 commissioners of Hillsborough County enact an ordinance before
22 that date to implement the provisions of the chapter law.
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