

By Senator Grant

13-1117-00

1 A bill to be entitled
 2 An act relating to liens; creating the Florida
 3 Hospital Lien Act; providing a lien on
 4 judgments and settlements recovered from a
 5 tortfeasor causing a patient's injury for
 6 hospitals for reasonable charges owed for
 7 services provided to an injured person;
 8 providing limitations; providing for
 9 determination by the court of amount of
 10 recovery when a patient and hospital cannot
 11 agree on the actual amount; providing for
 12 reduction of the lien by any payments to the
 13 hospital by or on behalf of a patient;
 14 providing for notification to the hospital of
 15 the patient's intent to claim damages from the
 16 tortfeasor; requiring the hospital to state its
 17 intent to assert its lien within a prescribed
 18 time; providing a waiver of the right for
 19 failure to so state; requiring a hospital to
 20 provide a patient with reasonably necessary
 21 information; providing an effective date.

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

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 25 Section 1. (1) This section may be cited as the
 26 "Florida Hospital Lien Act".
 27 (2) Every hospital as defined in chapter 395, Florida
 28 Statutes, which is in full compliance with that chapter is
 29 entitled to a lien under this section, for all reasonable
 30 hospital charges due and owing to the hospital for medically
 31 necessary health care services provided to an injured person,

1 upon the proceeds of judgments and settlements recovered from
2 a tortfeasor who caused the injuries to the injured person
3 thus necessitating the health care services. As used in this
4 section, the term "patient" includes the legal representatives
5 of the injured person.

6 (3) The lien for all reasonable charges is limited to
7 the actual amount of all reasonable charges recovered by the
8 patient from a tortfeasor, less the hospital's pro rata share
9 of costs and attorney's fees incurred by the patient in
10 recovering such charges from the tortfeasor. In determining
11 the hospital's pro rata share of those costs and attorney's
12 fees, the hospital must have deducted from its recovery an
13 amount equal to the percentage of the judgment or settlement
14 which is for costs and attorney's fees.

15 (4) All reasonable charges must be calculated after
16 reduction for all amounts paid or at any time payable under
17 any third-party-payor contract or agreements between the
18 hospital and third-party payors or from any other private,
19 public, county, state, or federal insurance, contract,
20 agreement, benefit, program, or plan. All reasonable charges
21 must be calculated after all adjustments, reductions, and
22 write-offs, in accordance with all third-party-payor contracts
23 and agreements between the hospital and third-party payors,
24 and in accordance with any other private, public, county,
25 state, or federal insurance contract, agreement, benefit,
26 program, or plan.

27 (5) If there is no amount paid or at any time payable
28 under any third-party-payor contract or agreement between the
29 hospital and third-party payors, or from any other private,
30 public, county, state, or federal insurance, contract,
31 agreement, benefit, program, or plan, the amount of reasonable

1 charges must be determined under the third-party-payor
2 contract or agreement entered into between the hospital and a
3 third-party payor which provides for the lowest charges agreed
4 to as acceptable by the hospital, taking into account all
5 reductions and write-offs provided for in the
6 third-party-payor contract or agreement in effect at the time
7 the charges were incurred.

8 (6) If the patient and hospital fail to agree to the
9 actual amount of the charges recovered from a tortfeasor, the
10 court in which the patient's claim against the tortfeasor was
11 filed, or if never filed, the circuit court of the county in
12 which the cause of action arose, shall determine the actual
13 amount of the charges recovered from a tortfeasor. In
14 determining the actual amount of charges recovered,
15 consideration must be given to any offset in the amount of
16 settlement or judgment for any comparative negligence of the
17 patient, negligence of other tortfeasors, limitations in the
18 amount of liability insurance coverage available to the
19 tortfeasor, or any other mitigating factors determined
20 equitable and appropriate under the circumstances.

21 (7) The hospital-lien recovery from the judgment or
22 settlement as calculated under this section must be reduced by
23 any payments to the hospital by the patient and by any
24 payments to the hospital by any other individual or entity
25 making a voluntary donation on behalf of the patient.

26 (8) A patient shall send the hospital, by certified or
27 registered mail, notification of his or her intent to claim
28 damages from the tortfeasor. If the claimant has filed suit
29 against the tortfeasor at the time such notice is sent, a copy
30 of the complaint against the tortfeasor should be included
31 with the notice. The notice must include a statement that the

1 hospital waives any lien if it does not provide the patient or
2 patient's attorney with a statement asserting the lien and the
3 amount of all reasonable charges within 30 days following
4 receipt of the patient's notification to the hospital.

5 (9) Within 30 days after receipt of the patient's
6 notice of intent to claim damages from the tortfeasor, the
7 hospital must provide the patient or patient's attorney with a
8 statement asserting its lien. Failure of the hospital to
9 provide this statement to the patient or patient's attorney
10 within the 30-day period constitutes a waiver of any lien; and
11 no lien exists if the lien has been waived pursuant to this
12 section.

13 (10) Payment to the hospital pursuant to this section
14 fully satisfies the patient's hospital charges and bill.

15 (11) A hospital shall cooperate with the patient and
16 the patient's attorney by producing at no charge to the
17 patient all reasonably necessary information to assist the
18 patient in proving his or her claim against the tortfeasor.
19 Reasonably necessary information includes, but is not limited
20 to, hospital bills and medical records.

21 Section 2. This act shall take effect July 1, 2000,
22 and shall apply to all hospital charges incurred on or after
23 that date.

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SENATE SUMMARY

Creates the Florida Hospital Lien Act. Provides a lien on judgments and settlements recovered from a tortfeasor causing a patient's injury for reasonable charges owed for services provided to an injured person. Provides limitations. Provides for a determination by a court of the amount of recovery when a patient and hospital cannot agree on the actual amount of the recovery. Provides for a reduction of the lien by any payments to the hospital by or on behalf of the patient. Provides for notification to the hospital of the patient's intent to claim damages from the tortfeasor. Requires the hospital to state its intent to assert its lien within a prescribed time, or its right to the lien is waived. Requires a hospital to provide a patient with reasonably necessary information.