

By Senator Saunders

25-1891-02

1 A bill to be entitled
2 An act relating to Collier County; providing
3 for liens in favor of a nonprofit corporation
4 operating a charitable hospital within the
5 county upon causes of action, suits, claims,
6 counterclaims, and demands accruing to
7 patients, or their legal representatives;
8 providing for liens upon amounts due under
9 hospital insurance and upon judgments,
10 settlements, and settlement agreements for
11 charges for hospital care, treatment, and
12 maintenance; providing for liens upon amounts
13 due under hospitalization, public liability,
14 and other indemnity policies; providing for
15 perfecting and enforcing such liens; providing
16 for recovery of costs, attorney's fees, and
17 expenses; requiring that a claim of lien be
18 recorded; providing recording fees; providing a
19 method for satisfying a lien; providing that a
20 release or satisfaction is not valid unless the
21 lienholder joins in or executes a release;
22 providing that a settlement in the absence of a
23 release is prima facie evidence of an
24 impairment of the lien; providing that the
25 lienholder has a right of action for damages on
26 account of such impairment; providing for
27 recovery from the party accepting a release or
28 satisfaction or making a settlement; providing
29 that the act does not apply to accidents or
30 injuries covered by the state's Workers'
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1 Compensation Law; providing for severability;
2 providing an effective date.

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

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6 Section 1. Any nonprofit corporation operating a
7 hospital that qualifies as a charitable hospital under section
8 501(c)(3) of the Internal Revenue Code, located in Collier
9 County, is entitled to and is given a lien for all reasonable
10 charges for hospital care, treatment, and maintenance of an
11 ill or injured person and for the charges for tests,
12 laboratory work, X rays, drugs, and other items incident to
13 the care and treatment supplied by or charged to the hospital
14 for the benefit of the ill or injured person, the total or
15 unpaid part of which is defined as the "hospital bill." Such
16 lien is upon all causes of action, suits, claims,
17 counterclaims, and demands accruing to the person to or for
18 whom such care, treatment, or maintenance is furnished, or
19 accruing to the legal representative of such person, or to any
20 person who incurs or is liable for the hospital bill,
21 regardless of whether by law or contract. Such lien is also
22 given upon the amounts due and payable under hospitalization
23 insurance or hospital or medical expenses due or payable under
24 a public liability policy, or its indemnity; upon proceeds of
25 such insurance or indemnity agreement; and upon all judgments,
26 settlements, and settlement agreements, and the sums payable
27 thereunder, which are rendered or entered into by virtue
28 thereof and which concern the illness or injuries giving rise
29 to such causes of action, suits, claims, counterclaims,
30 demands, amounts due or payable, proceeds, judgments,
31 settlements, or settlement agreements and which have

1 necessitated or have directly contributed to the necessity for
2 such hospital care, treatment, or maintenance, regardless of
3 whether the illness or injury is the result of a tort or
4 otherwise.

5 Section 2. (1) In order to perfect such lien, an
6 executive officer, controller, or agent of the hospital,
7 within 30 days after the person has been discharged from the
8 hospital, must file in the office of the Clerk of the Circuit
9 Court of Collier County a verified claim in writing which
10 contains:

11 (a) The name and address of the patient, as it appears
12 on the records of the hospital and, if the patient is a minor,
13 the name of the parent or legal guardian of the minor patient;

14 (b) The name and location of the hospital;

15 (c) The dates of admission to and discharge of the
16 patient from the hospital;

17 (d) The amount claimed to be due for hospital care,
18 treatment, and maintenance; and

19 (e) To the best knowledge of the person signing the
20 claim, the names and addresses, if known, of all persons,
21 firms, or corporations claimed by such ill or injured person,
22 or his or her legal representative, to be liable under
23 hospital or other indemnity insurance.

24 (2) The claimant shall, within 3 days after filing the
25 claim of lien, mail a copy of the claim of lien by registered
26 or certified mail, with return receipt requested and postage
27 prepaid, to each person, firm, or corporation claimed to be
28 liable under such hospital or other indemnity insurance at the
29 address provided in the claim of lien.

30 (3) The filing of a claim of lien constitutes notice
31 of the claim each person, firm, or corporation that may be

1 liable on account of such illness or injuries, regardless of
2 whether the person, firm, or corporation is named in the
3 claim, and regardless of whether a copy of the claim is
4 received by the person, firm, or corporation. The claim does
5 not constitute a lien upon anything other than interests
6 specified in section 1 and is not a general lien upon the
7 property or persons named in the claim.

8 Section 3. (1) The Clerk of the Circuit Court of Lee
9 County shall endorse on each such claim the date and hour of
10 filing in the official records of Collier County, or the clerk
11 may provide a hospital lien book with an index in which he or
12 she shall record the claim and show the date and hour of
13 filing. The clerk shall be paid by the claimant, as his or her
14 fee for filing and recording the claim, the amount authorized
15 for recording under section 28.24, Florida Statutes, as
16 amended.

17 (2) The hospital claiming a lien shall furnish the
18 patient with a properly executed satisfaction upon payment or
19 discharge of the lien. The clerk shall record any satisfaction
20 that is executed and acknowledged under oath by the lien
21 claimant, through its executive officer, controller, or agent,
22 in the official records of Collier County upon payment of the
23 filing fee authorized under section 28.24, Florida Statutes,
24 as amended.

25 (3) A release or satisfaction of any action, suit,
26 claim, counterclaim, demand, judgment, settlement, or
27 settlement agreement is not valid or effectual against such
28 lien unless the lienholder joins therein or executes a release
29 of the lien.

30 (4) An acceptance of a release or satisfaction of any
31 such cause of action, suit, claim, counterclaim, demand,

1 judgment, settlement, or settlement agreement, in the absence
2 of a release or satisfaction of the lien, constitutes prima
3 facie evidence of an impairment of the lien, and the
4 lienholder may recover from the one accepting the release or
5 satisfaction, or making the settlement, the complete unpaid
6 reasonable cost of the hospital care, treatment, and
7 maintenance without limitation, plus the cost of recording the
8 lien. Satisfaction of any judgment rendered in favor of the
9 lienholder in any such action operates as a satisfaction of
10 the lien. Any action by the lienholder must be brought in the
11 court having jurisdiction of the amount of the lienholder's
12 claim. If the lienholder prevails in such action, the
13 lienholder is entitled to recover from the defendant all costs
14 allowed by law, together with reasonable attorney's fees to
15 the lienholder's attorney for handling the action.

16 Section 4. (1) Regardless of whether the lien has
17 been perfected under section 2, upon a suit being filed by the
18 patient or on the patient's behalf which concerns the illness
19 or injury or care, treatment, and maintenance of the patient,
20 an executive officer, controller, or agent of the hospital may
21 file in the suit a notice of nonpayment of the hospital bill,
22 which notice must be recorded and which constitutes a
23 perfected lien upon any judgment recovered or settlement made
24 to the extent of the unpaid reasonable cost of the hospital
25 care, treatment, and maintenance, without limitation. Such
26 notice must be served upon each party to the suit, and his or
27 her attorney of record, by registered or certified mail.

28 (2) A release or satisfaction of such action, suit,
29 claim, counterclaim, demand, judgment, settlement, or
30 settlement agreement is not valid or effectual as against such
31 lien unless the lienholder joins therein or executes a release

1 of the lien. An acceptance of a release or satisfaction of any
2 such cause of action, suit, claim, counterclaim, demand, or
3 judgment, or a settlement of any of the foregoing in the
4 absence of a release or satisfaction of the lien, constitutes
5 prima facie evidence of an impairment of the lien, and the
6 lienholder is entitled to an action at law for damages on
7 account of such impairment and, in such action, may recover
8 from the one accepting the release or satisfaction, or making
9 the settlement, the complete unpaid reasonable cost of the
10 hospital care, treatment, and maintenance, without limitation.
11 Satisfaction of a judgment rendered in favor of the lienholder
12 in any such action operates as a satisfaction of the lien. Any
13 action by the lienholder must be brought in the court having
14 jurisdiction of the amount of the lienholder's claim. If the
15 lienholder prevails in such action, the lienholder may recover
16 from the defendant all costs allowed by law, together with
17 reasonable attorney's fees to the lienholder's attorney for
18 handling the action.

19 Section 5. The acceptance of hospital care is deemed a
20 determination that hospitalization insurance was taken out for
21 the benefit of the hospital and as an equitable assignment of
22 the proceeds to the hospital. The hospital may write or stamp
23 upon every statement rendered by it that it claims a lien upon
24 the proceeds of all hospitalization insurance, and such legend
25 is notice to any individual, partnership, firm, association,
26 or corporation into whose possession the statement comes, that
27 the hospital has such a lien. In this event, payment to the
28 policyholder without settlement directly to the hospital by
29 the insurance company makes the insurance company liable to
30 the hospital for the amount of the hospital bill or as much

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1 thereof as the policy indemnifies, despite failure of the
2 hospital to perfect such lien as provided in this act.

3 Section 6. This act does not apply to accidents or
4 injuries within the purview of the Workers' Compensation Law
5 of this state.

6 Section 7. If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 invalidity does not affect other provisions or applications of
9 the act which can be given effect without the invalid
10 provision or application, and to this end the provisions of
11 this act are severable. The invalidity of any provision of
12 this act with respect to a particular hospital does not affect
13 its validity with respect to any other hospital.

14 Section 8. This act shall take effect upon becoming a
15 law.

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