

By Senator Saunders

37-68-03

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; authorizing such liens on judgments and
6 settlements recovered from a tortfeasor causing
7 a patient's injury for reasonable charges owed
8 to a hospital for services provided to an
9 injured person; providing limitations;
10 providing for determination by the court of
11 amount of recovery when a patient and hospital
12 cannot agree on the actual amount; providing
13 for reduction of the lien by any payments to
14 the hospital by or on behalf of a patient;
15 providing for notification to the hospital of
16 the patient's intent to claim damages from the
17 tortfeasor; requiring the hospital to state its
18 intent to assert its lien within a prescribed
19 time; providing a waiver of the right for
20 failure to state such intent; requiring that
21 the hospital provide a patient with reasonably
22 necessary information; providing an effective
23 date.

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

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27 Section 1. (1) Each nonprofit corporation operating a
28 hospital that qualifies as a charitable hospital under section
29 501(c)(3) of the Internal Revenue Code and that is located in
30 Collier County is entitled under this section to a lien, for
31 all reasonable hospital charges due and owing to the hospital

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

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

16 (3) All reasonable charges must be calculated after
17 reduction for all amounts paid or at any time payable under
18 any third-party-payor contract or agreements between the
19 hospital and third-party payors or from any other private,
20 public, county, state, or federal insurance, contract,
21 agreement, benefit, program, or plan. If benefits are payable
22 under personal injury protection insurance as provided in
23 chapter 627, Florida Statutes, and the injured person has lost
24 wages, 25 percent of the amount of the personal injury
25 protection benefits or the amount of lost wages, whichever is
26 less, must be reserved for paying the injured person's lost
27 wages, and that amount reserved for lost wages may not be used
28 to pay reasonable charges and is not subject to the lien
29 created by this section. All reasonable charges must be
30 calculated after all adjustments, reductions, and write-offs,
31 in accordance with all third-party-payor contracts and

1 agreements between the hospital and third-party payors, and in
2 accordance with any other private, public, county, state, or
3 federal insurance contract, agreement, benefit, program, or
4 plan.

5 (4) If no amount is paid or at any time payable under
6 any third-party-payor contract or agreement between the
7 hospital and third-party payors, or from any other private,
8 public, county, state, or federal insurance, contract,
9 agreement, benefit, program, or plan, the amount of reasonable
10 charges must be determined under the third-party-payor
11 contract or agreement entered into between the hospital and a
12 third-party payor which provides for the lowest charges agreed
13 to as acceptable by the hospital, taking into account all
14 reductions and write-offs provided for in the
15 third-party-payor contract or agreement in effect at the time
16 the charges were incurred.

17 (5) If the patient and hospital fail to agree to the
18 actual amount of the charges recovered from a tortfeasor, the
19 court in which the patient's claim against the tortfeasor was
20 filed, or, if never filed, the circuit court of the county in
21 which the cause of action arose, shall determine the actual
22 amount of the charges recovered from a tortfeasor. In
23 determining the actual amount of charges recovered,
24 consideration must be given to any offset in the amount of
25 settlement or judgment for any comparative negligence of the
26 patient, negligence of other tortfeasors, limitations in the
27 amount of liability insurance coverage available to the
28 tortfeasor, or any other mitigating factors determined
29 equitable and appropriate under the circumstances.

30 (6) The hospital-lien recovery from the judgment or
31 settlement as calculated under this section must be reduced by

1 any payments to the hospital by the patient and by any
2 payments to the hospital by any other individual or entity
3 making a voluntary donation on behalf of the patient.

4 (7) A patient shall send the hospital, by certified or
5 registered mail, notification of his or her intent to claim
6 damages from the tortfeasor. If the claimant has filed suit
7 against the tortfeasor at the time such notice is sent, a copy
8 of the complaint against the tortfeasor shall be included with
9 the notice. The notice must include a statement that the
10 hospital waives any lien if it does not provide the patient or
11 patient's attorney with a statement asserting the lien and the
12 amount of all reasonable charges within 30 days following
13 receipt of the patient's notification to the hospital.

14 (8) Within 30 days after receipt of the patient's
15 notice of intent to claim damages from the tortfeasor, the
16 hospital must provide the patient or patient's attorney with a
17 statement asserting its lien. Failure of the hospital to
18 provide this statement to the patient or patient's attorney
19 within the 30-day period constitutes a waiver of any lien, and
20 no lien exists if the lien has been waived pursuant to this
21 section.

22 (9) Payment to the hospital pursuant to this section
23 fully satisfies the patient's hospital charges and bill.

24 (10) A hospital shall cooperate with the patient and
25 the patient's attorney by producing at no charge to the
26 patient all reasonably necessary information to assist the
27 patient in proving his or her claim against the tortfeasor.
28 Reasonably necessary information includes, but is not limited
29 to, hospital bills and medical records.

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1 Section 2. This act shall take effect July 1, 2003,
2 and applies to all hospital charges incurred on or after that
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