

## House Bill No. 1139

An act relating to Collier County; providing for liens in favor of a nonprofit corporation operating a charitable hospital within the county; authorizing such liens on judgments and settlements recovered from a tortfeasor causing a patient's injury for reasonable charges owed to a hospital for services provided to an injured person; providing limitations; providing for determination by the court of amount of recovery when a patient and hospital cannot agree on the actual amount; providing for reduction of the lien by any payments to the hospital by or on behalf of a patient; providing for notification to the hospital of the patient's intent to claim damages from the tortfeasor; requiring the hospital to state its intent to assert its lien within a prescribed time; providing a waiver of the right for failure to state such intent; providing that payment to the hospital pursuant to this act fully satisfies the patient's hospital charges and bill; requiring that the hospital provide a patient with reasonably necessary information; providing an effective date.

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

Section 1. (1) Each nonprofit corporation operating a hospital that qualifies as a charitable hospital under section 501(c)(3) of the Internal Revenue Code and that is located in Collier County is entitled under this section to a lien, for all reasonable hospital charges due and owing to the hospital for medically necessary health care services provided to an injured person, upon the proceeds of judgments and settlements recovered from a tortfeasor who caused the injuries to the injured person thus necessitating the health care services. As used in this section, the term "patient" includes the legal representatives of the injured person.

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

(3) All reasonable charges must be calculated after reduction for all amounts paid or at any time payable under any third-party-payor contract or agreements between the hospital and third-party payors or from any other private, public, county, state, or federal insurance, contract, agreement, benefit, program, or plan. If benefits are payable under personal injury protection insurance as provided in chapter 627, Florida Statutes, and the injured person has lost wages, 25 percent of the amount of the personal injury protection benefits or the amount of lost wages, whichever is less, must be reserved for paying the injured person's lost wages, and that amount reserved for lost wages may not be used to pay reasonable charges and is not subject to the lien created by this section. All reasonable charges

must be calculated after all adjustments, reductions, and write-offs, in accordance with all third-party-payor contracts and agreements between the hospital and third-party payors, and in accordance with any other private, public, county, state, or federal insurance contract, agreement, benefit, program, or plan.

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

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

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

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

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

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

(10) A hospital shall cooperate with the patient and the patient's attorney by producing at no charge to the patient all reasonably necessary infor-

mation to assist the patient in proving his or her claim against the tortfeasor. Reasonably necessary information includes, but is not limited to, hospital bills and medical records.

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

Approved by the Governor June 23, 2003.

Filed in Office Secretary of State June 23, 2003.