

By Senators Cowin and Dockery

20-313A-04

1                                   A bill to be entitled  
2           An act relating to Lake County; amending  
3           chapter 93-346, Laws of Florida; providing for  
4           liens in favor of physicians licensed under  
5           chapter 458 or chapter 459, Florida Statutes,  
6           in Lake County upon causes of action, suits,  
7           claims, counterclaims, and demands accruing to  
8           patients who received physician services in  
9           Lake County hospitals, or the patients' legal  
10          representatives, and upon judgments,  
11          settlements, and settlement agreements, on  
12          account of illness or injury of such patients,  
13          for all reasonable charges incurred before  
14          filing the claim of lien for physician services  
15          rendered in the hospital; providing for a  
16          method of perfecting and enforcing such liens;  
17          providing duties of the Clerk of the Circuit  
18          Court of Lake County; requiring claims for  
19          liens to be recorded and providing for  
20          recording fees; providing for validity of a  
21          release or satisfaction of an action, suit,  
22          claim, counterclaim, demand, judgment,  
23          settlement, or settlement agreement against a  
24          lien under certain circumstances; specifying  
25          actions constituting impairment of a lien;  
26          entitling lienholders to actions for damages  
27          for such impairment; specifying actions in  
28          satisfaction of a lien; providing for recovery  
29          of attorney's fees and expenses under certain  
30          circumstances; prohibiting recovery of damages  
31          for physician and hospital care, treatment, and

1 maintenance unless a claimant has paid certain  
2 costs; providing an exception; providing for  
3 intervention by a lienholder and for verdict  
4 and judgment in favor of a lienholder in  
5 certain cases; providing an exemption for  
6 matters within the purview of the Worker's  
7 Compensation Law of this state; providing an  
8 effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Chapter 93-346, Laws of Florida, is amended  
13 to read:

14 Section 1. Each ~~Every~~ individual, partnership, firm,  
15 association, corporation, institution, and governmental unit,  
16 and every combination of ~~any of~~ the foregoing, operating a  
17 hospital licensed under chapter 395, Florida Statutes, in Lake  
18 County, and each physician licensed to practice medicine  
19 pursuant to chapter 458 or chapter 459, Florida Statutes, or  
20 ~~any governmental agency paying for hospital charges or medical~~  
21 ~~treatment of individuals in Lake County shall have be entitled~~  
22 ~~to a lien~~ subject to the limitations of this act for all  
23 reasonable charges for such hospital and physician care,  
24 treatment, and maintenance rendered in that hospital, prior to  
25 filing the claim of lien, to ~~of~~ all ill or injured persons  
26 upon any and all causes of action, suits, claims,  
27 counterclaims, and demands, ~~accruing~~ accruing to the persons to whom  
28 such care, treatment, or maintenance are furnished, or  
29 accruing to the legal representative of such persons, and upon  
30 all judgments, settlements, and settlement agreements rendered  
31 or entered into by virtue thereof, on account of illness or

1 injury giving rise to such causes of action ~~actions~~, suits,  
2 claims, counterclaims, demands, judgments, settlement, or  
3 settlement agreements ~~agreement~~, which necessitated or shall  
4 have necessitated such hospital and physician care, treatment,  
5 and maintenance. ~~The above-referenced lien shall be limited to~~  
6 ~~the lesser of the following: reasonable charges for care and~~  
7 ~~treatment or two-thirds of the net amount of settlement or~~  
8 ~~judgment after deducting the reasonable cost of procuring the~~  
9 ~~settlement or judgment. Reasonable costs of procuring the~~  
10 ~~settlement or judgment include reasonable attorney's fees.~~

11 Section 2. In order to perfect such a lien, the  
12 physician or the executive officer or duly appointed agent of  
13 a hospital or responsible governmental officer shall, ~~before~~  
14 ~~or within 180 days after any such person shall have been~~  
15 ~~discharged from the hospital,~~ file in the office of the Clerk  
16 of the Circuit Court in Lake County ~~the county in which the~~  
17 ~~hospital is located,~~ a verified claim in writing setting forth  
18 the name and address of the patient as it appears on the  
19 records of the hospital or physician, the name and location of  
20 the hospital or physician, the name and address of the  
21 executive officer or agent of the hospital or physician, the  
22 dates of admission to and discharge of the patient therefrom,  
23 the amount claimed to be due for the hospital or physician  
24 care, treatment, and maintenance rendered in the hospital  
25 before the claim of lien was filed, and, to the best knowledge  
26 of the person signing the ~~such~~ claim, the names and addresses  
27 of all persons, firms, or corporations claimed by such ill or  
28 injured person or by the legal representative of such person,  
29 to be liable on account of such illness or injury. The  
30 hospital shall file the verified claim of lien only as to  
31 hospital services rendered by or on behalf of the hospital

1 before filing the claim of lien; the physician shall file the  
2 verified claim of lien only as to physician services rendered  
3 in the hospital by or on behalf of the physician before filing  
4 the claim of lien. The lienholder ~~injuries; the claimant~~ shall  
5 also, within 7 business days after the filing of such claim of  
6 ~~or~~ lien, mail a copy thereof via registered mail, postage  
7 prepaid, to each person, firm, or corporation claimed to be  
8 liable on account of such illness or injuries, at the address  
9 set forth in the verified claim. The filing of the claim shall  
10 be notice thereof to all persons, forms, or corporations who  
11 may be liable on account of such illness or injury, whether or  
12 not they are named in the claim of ~~or~~ lien, and whether or not  
13 they have received a copy of the claim ~~shall have been~~  
14 received by them.

15           Section 3. The Clerk of the Circuit Court of Lake  
16 County shall endorse on the claim the date and hour of filing  
17 and shall record the claim in the official records of Lake  
18 County. The Clerk of the Circuit Court of Lake County ~~His~~  
19 office shall be paid by the lienholder ~~claimant~~, for the  
20 filing and recording of each claim, the same fee as provided  
21 for filing and recording other instruments under the recording  
22 laws.

23           Section 4. A ~~No~~ release or satisfaction of any action,  
24 suit, claim, counterclaim, demand, judgment, settlement, or  
25 settlement agreement or of any of them is invalid and  
26 ~~ineffectual, shall be valid or effectual~~ against such lien  
27 unless the lienholder joins ~~shall join~~ therein or executes  
28 ~~execute~~ a release of the lien. Any acceptance of a release or  
29 satisfaction of any cause of action, suit, claim,  
30 counterclaim, demand, or judgment and any settlement of any of  
31 the foregoing in the absence of a release or satisfaction of

1 | lien referred to in this act constitutes ~~shall~~ prima facie  
2 | evidence of ~~constitute~~ an impairment of the lien, and the  
3 | lienholder is ~~shall be~~ entitled to an action at law for  
4 | damages on account of such impairment, and, in such action,  
5 | may recover from the one accepting the release or satisfaction  
6 | or making the settlement the reasonable costs ~~cost~~ of the  
7 | ~~hospital~~ care, treatment, and maintenance. Satisfaction of any  
8 | judgment rendered in favor of the lienholder in any such  
9 | action operates ~~shall operate~~ as a satisfaction of the lien.  
10 | Any action by the lienholder must ~~shall~~ be brought in the  
11 | court having jurisdiction in the amount of the lienholder's  
12 | claims ~~claim~~ and may be brought and maintained in Lake County  
13 | ~~the county in which the lienholder has his, or its, or their~~  
14 | ~~residence or place of business~~. If the lienholder prevails  
15 | ~~shall prevail~~ in such action, the lienholder is ~~shall be~~  
16 | entitled to recover from the defendant, in addition to costs  
17 | otherwise allowed by law, all reasonable attorney's fees and  
18 | expenses incident to the matter.

19 |       Section 5. Notwithstanding the lien created by this  
20 | act, the amount recovered in a judgment, award, or settlement  
21 | subject to this act must be distributed and the lien  
22 | extinguished as follows:

23 |       (a) After attorney's fees and taxable costs as defined  
24 | by the Florida Rules of Civil Procedure have been paid, up to  
25 | 60 percent of the remaining amount recovered must be  
26 | distributed to the lienholders pro rata up to the total amount  
27 | of reasonable charges for medical services provided in the  
28 | hospital by the lienholders.

29 |       (b) At least 40 percent of the remaining amount  
30 | recovered must be paid to the patient.

31 |

1 Upon such distribution, the lienholder shall promptly file in  
2 the office of the Clerk of the Circuit Court in Lake County a  
3 satisfaction of the lien and shall cause it to be recorded in  
4 the official records of Lake County.

5       Section 6. For purposes of this act, the reasonable  
6 charges due and owing to the lienholder must be determined by  
7 reducing the patient's reasonable charges by the amount of any  
8 health insurance payment or obligation or any other  
9 reimbursement paid or owed to the lienholder on behalf of the  
10 patient by any health care policy, plan, or program. The lien  
11 may not exceed the amount that the lienholder would be legally  
12 entitled to recover directly from the patient after all  
13 payments on behalf of the patient have been made by health  
14 care policies, plans, or programs to which the patient is  
15 legally entitled. If the lienholder's charges are reduced by  
16 any third-party payor as a result of any agreement or contract  
17 between the lienholder and the third-party payor, or as a  
18 result of state or federal law, the patient is entitled to a  
19 similar reduction in any copayment charges billed to the  
20 patient.

21       Section 7.5. ~~A No person is not shall be~~ entitled to  
22 recover or receive damages on account of ~~hospital~~ care,  
23 treatment, and maintenance provided by any individual,  
24 partnership, firm, association, corporation, institution, or  
25 governmental unit or any combination of any of the foregoing,  
26 operating a hospital or provided by any physician subject to  
27 this act in Lake County unless the person ~~he shall~~  
28 affirmatively shows ~~show~~ that he or she has paid the costs  
29 thereof. However, in any action, suit, or counterclaim brought  
30 on account of illness or injury, the plaintiff or  
31 counterclaimant may include as an item of damages the cost of

1 such ~~hospital~~ care, treatment, and maintenance, if, before  
2 prior to the trial of the action, the plaintiff or  
3 counterclaimant notifies ~~he shall have notified~~ the lienholder  
4 referred to in this act of the pendency of the such action or  
5 counterclaim; whereupon such lienholder has ~~shall have~~ the  
6 right, without leave of court, to intervene in the case and  
7 prove the reasonable costs ~~cost~~ of such ~~hospital~~ care,  
8 treatment, and maintenance. Any verdict that is ~~may be~~  
9 rendered in favor of the plaintiff or counterclaimant must  
10 ~~shall~~ set forth the amount the jury finds to be due the  
11 lienholder for the such ~~hospital~~ care, treatment, and  
12 maintenance, and the name of the such lienholder. Any judgment  
13 rendered in the case in favor of the plaintiff or  
14 counterclaimant must ~~shall~~ also be in favor of the lienholder  
15 in the amount set forth by the jury's verdict.

16 Section 8.6. This act is inapplicable to incidents ~~The~~  
17 ~~provisions of this act shall not be applicable to accidents or~~  
18 injuries within the purview of the Worker's Compensation Law  
19 within this state ~~the State of Florida~~.

20 Section 9.7. If any section, paragraph, sentence,  
21 clause, phrase, or other part of this act should be declared  
22 unconstitutional, or if this act should be declared  
23 inapplicable in any case, such declaration shall not affect  
24 the remainder of this act nor the applicability thereof in any  
25 other case.

26 Section 10.8. This act shall take effect upon becoming  
27 a law.

28 Section 2. This act shall take effect upon becoming a  
29 law.

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