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3 HOUSE INSURANCE COMMITTEE SUBSTITUTE FOR HB11  
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8 SYNOPSIS: Existing law provides that a hospital may  
9 perfect a lien for reasonable charges for hospital  
10 care, treatment, and maintenance of an injured  
11 person against any settlement or judgment that a  
12 person may receive from parties who are liable for  
13 the injury and provides for the administration of  
14 matters relating to the lien.

15 This bill would require a hospital that  
16 provides medical treatment to an injured person to  
17 seek compensation solely from that person's health  
18 insurance provider, with the exception of approved  
19 copayments and deductibles, unless certain  
20 circumstances apply. This bill would also allow a  
21 hospital to perfect a hospital lien against any  
22 recovery the injured person may be awarded for  
23 injuries by way of settlement or judgment in  
24 certain circumstances.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 Relating to hospitals; to amend Sections 35-11-371  
4 and 35-11-372, Code of Alabama 1975, to require a hospital  
5 that provides medical treatment to an injured person to seek  
6 compensation solely from that person's health insurance  
7 provider, with the exception of approved copayments and  
8 deductibles, unless certain circumstances apply; and to allow  
9 a hospital to perfect a hospital lien against any recovery the  
10 injured person may be awarded for injuries by way of  
11 settlement or judgment in certain circumstances.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 35-11-371 and 35-11-372, Code of  
14 Alabama 1975, are amended to read as follows:

15 "§35-11-371.

16 "(a) For the purposes of this section, the following  
17 terms shall have the following meanings:

18 "(1) HEALTH CARE PAYOR. A health care insurer,  
19 health maintenance organization, or health care service plan  
20 organized under Article 6, Chapter 20, Title 10A, authorized  
21 to provide health care coverage in the state.

22 "(2) SATISFY THE CLAIM. Receipt by the hospital of  
23 either of the following:

24 "a. Full payment for services as billed.

25 "b. If the hospital has a contract with the injured  
26 person's health care payor, payment together with all credits,  
27 discounts, and contractual adjustments that the patient's bill

1 would be entitled under the contract, including recoupments,  
2 between the hospital and the patient's health care payor which  
3 extinguish the patient's obligation for the services rendered.

4 "(b) Unless specifically contrary to any contractual  
5 agreement between the hospital and the injured person's health  
6 care payor or unless contrary to any statute or governmental  
7 rule or regulation of the United States or this state, no  
8 hospital shall perfect a lien as to any injured person who was  
9 covered by a health care payor's policy, until the hospital  
10 submits to the health care payor an accurate and properly  
11 coded claim, or if a contract exists between the hospital and  
12 the health care payor, in the form required pursuant to the  
13 contract, and there is a failure to satisfy the claim.

14 Perfection of a lien shall be as follows:

15 "(1) A hospital may perfect its lien as to an  
16 injured person who was covered by a health care payor's policy  
17 that provides primary coverage for the care, if the hospital  
18 takes the steps described in subsection (c), within 20 days  
19 after its receipt of notice of the health care payor's denial  
20 of an accurate and properly coded claim. Failure to satisfy an  
21 accurate and properly coded claim within 45 days of submission  
22 or the subsequent recoupment by the health care payor of  
23 amounts previously paid, which results in a failure to satisfy  
24 the claim, shall be deemed a denial of the claim.

25 "(2) A hospital may perfect its lien as to an  
26 injured person who was not known to the hospital to be covered  
27 by a health care payor, was covered by a governmental payor

1 including Medicare or Medicaid, or was covered by a policy not  
2 described in subdivision (b)(1), if it takes the steps  
3 described in subsection (c) within 20 days after discharge.

4 "(3) Where the hospital does not receive evidence of  
5 the injured person's health care payor until after the lien  
6 provided for by this section has been perfected, the hospital  
7 shall bill the health care payor forthwith but may retain its  
8 lien until satisfaction of the claim. If the claim is  
9 satisfied, the hospital shall release the lien within 10 days.

10 "(c) In order to perfect ~~such a~~ lien under this  
11 division, the operator of ~~such the~~ hospital, ~~before or within~~  
12 ~~10 days after such person shall have been discharged therefrom~~  
13 shall file in ~~with~~ the ~~office of the judge of probate of the~~  
14 ~~county or counties~~ probate court of the county in which ~~such~~  
15 ~~cause of action arose~~ the hospital is located a verified  
16 statement setting forth the name and address of ~~such the~~  
17 patient, as it shall appear on the records of ~~such the~~  
18 hospital, the name and location of ~~such the~~ hospital and the  
19 name and address of the operator thereof, the dates of  
20 admission and discharge of ~~such the~~ patient therefrom, the  
21 amount claimed to be due for ~~such the~~ hospital care, which  
22 shall give full credit for any health care payor payments  
23 made, including agreed contractual adjustments, and to the  
24 best of the claimant's knowledge, the names and addresses of  
25 all persons, firms, or corporations claimed by ~~such the~~  
26 injured person, or the legal representative of ~~such the~~  
27 person, to be liable for damages arising from ~~such the~~

1 injuries; ~~such~~. The claimant shall also within one day after  
2 the filing of ~~such~~ the claim or lien, mail a copy thereof by  
3 registered or certified mail, postage prepaid, for each  
4 person, firm, or corporation so claimed to be liable on  
5 account of ~~such~~ the injuries, at the addresses so given in  
6 ~~such~~ the statement, and to the patient, his guardian, or his  
7 personal representative at the address given at the time of  
8 admission.

9 "(d) The filing of ~~such~~ a claim or lien shall be  
10 notice thereof to all persons, firms, or corporations liable  
11 for ~~such~~ damages, whether or not they are named in ~~such~~ the  
12 claim or lien. Nothing herein shall be deemed to preclude the  
13 hospital from perfecting its lien outside of the time limits  
14 stated in this section through providing actual notice to  
15 persons, firms, or corporations.

16 "~~(b)~~ (e) The judge of probate shall endorse thereon  
17 the date and hour of filing, and at the expense of the county  
18 shall provide a hospital lien book with proper index in which  
19 he or she shall enter the date and hour of ~~such~~ the filing,  
20 the names and addresses of ~~such~~ the hospital, the operators  
21 thereof and of ~~such~~ the patient, the amount claimed and the  
22 names and addresses of those claimed to be liable for damages.  
23 ~~Such~~ The information shall be recorded in the name of the  
24 patient. The judge of probate shall be paid ~~\$1.00~~ one dollar  
25 (\$1) as his or her fee for ~~such~~ the filing.

26 "§35-11-372.

1           "(a) During the period of time allowed by Section  
2 35-11-371 for perfecting the lien ~~provided for by this~~  
3 ~~division,~~ including that period of time during which the  
4 hospital is awaiting payment or denial by the patient's health  
5 care payor, and also after the lien provided for by this  
6 division has been perfected, ~~as provided in this division,~~ by  
7 any lienholder entitled thereto, no release or satisfaction of  
8 any action, claim, counterclaim, demand, judgment, settlement,  
9 or settlement agreement, or of any of them, shall be valid or  
10 effectual as against ~~such~~ the lien unless ~~such~~ the lienholder  
11 shall join therein or execute a release of ~~such~~ the lien.

12           "(b) Any acceptance of a release or satisfaction of  
13 any ~~such~~ action, claim, counterclaim, demand or judgment and  
14 any settlement of any of the foregoing in the absence of a  
15 release or satisfaction of the lien referred to in this  
16 division shall prima facie constitute an impairment of ~~such~~  
17 the lien, and the lienholder shall be entitled to a civil  
18 action for damages on account of ~~such~~ the impairment, and in  
19 ~~such~~ the action may recover from the one accepting ~~such~~ the  
20 release or satisfaction or making ~~such~~ the settlement the  
21 reasonable ~~cost of such~~ charges for the hospital care,  
22 treatment, and maintenance. Satisfaction of any judgment  
23 rendered in favor of the lienholder in any ~~such~~ action shall  
24 operate as a satisfaction of the lien. Any action by the  
25 lienholder shall be brought in any court having jurisdiction  
26 thereof and may be brought and maintained in the county  
27 wherein the lienholder has his or her, its, or their residence

1 or place of business. If the lienholder shall prevail in ~~such~~  
2 the action, the lienholder shall be entitled to recover from  
3 the defendant, costs and reasonable attorney's fees. ~~Such~~ The  
4 action shall be commenced against the person liable for ~~such~~  
5 the damages within one year after the date ~~such~~ the liability  
6 shall be finally determined by a settlement release covenant  
7 not to sue or by the judgment of a court of competent  
8 jurisdiction."

9 Section 2. This act shall become effective on the  
10 first day of the third month following its passage and  
11 approval by the Governor, or its otherwise becoming law and  
12 shall apply to claims for hospital services that arise  
13 following the effective date.