

Senate Bill 239

By: Senator Mullis of the 53rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
2 mortgages, liens, and security, so as to change certain provisions related to hospital liens; to
3 provide for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mortgages,
7 liens, and security, is amended by revising Code Section 44-14-471, relating to filing of
8 verified statement, contents, and notice, as follows:

9 "44-14-471.

10 (a) In order to perfect the lien provided for in Code Section 44-14-470, the operator of the
11 hospital, nursing home, physician practice, or provider of traumatic burn care medical
12 practice:

13 (1) Shall, not less than 15 days prior to the date of filing the statement required under
14 paragraph (2) of this subsection, provide written notice to the patient and, to the best of
15 the claimant's knowledge, the persons, firms, corporations, and their insurers claimed by
16 the injured person or the legal representative of the injured person to be liable for
17 damages arising from the injuries and shall include in such notice a statement that the lien
18 is not a lien against the patient or any other property or assets of the patient and is not
19 evidence of the patient's failure to pay a debt. Such notice shall be sent to all such
20 persons and entities by first-class ~~and certified mail or statutory overnight delivery, return~~
21 ~~receipt requested~~ mail, e-mail, or facsimile; and

22 (2) Shall file in the office of the clerk of the superior court of the county in which the
23 hospital, nursing home, physician practice, or provider of traumatic burn care medical
24 practice is located ~~and in the county wherein the patient resides, if a resident of this state,~~
25 a verified statement setting forth the name and address of the patient as it appears on the
26 records of the hospital, nursing home, physician practice, or provider of traumatic burn

27 care medical practice; the name and location of the hospital, nursing home, physician
 28 practice, or provider of traumatic burn care medical practice and the name and address
 29 of the operator thereof; the dates of admission and discharge of the patient therefrom or
 30 with respect to a physician practice, the dates of treatment; and the amount claimed to be
 31 due for the hospital, nursing home, physician practice, or provider of traumatic burn care
 32 medical practice care, which statement must be filed within the following time period:

33 (A) If the statement is filed by a hospital, nursing home, or provider of traumatic burn
 34 care medical practice, then the statement shall be filed within 75 days after the person
 35 has been discharged from the facility; or

36 (B) If the statement is filed by a physician practice, then the statement shall be filed
 37 within 90 days after the person first sought treatment from the physician practice for the
 38 injury.

39 (b) The filing of the claim or lien shall be notice thereof to all persons, firms, or
 40 corporations liable for the damages, whether or not they received the written notice
 41 provided for in this Code section. The failure to perfect such lien by timely complying
 42 with the notice and filing provisions of paragraphs (1) and (2) of subsection (a) of this
 43 Code section shall invalidate such lien, except as to any person, firm, or corporation liable
 44 for the damages, which receives prior to the date of any release, covenant not to bring an
 45 action, or settlement, actual notice of a notice and filed statement made under
 46 subsection (a) of this Code section, via hand delivery, ~~certified mail, return receipt~~
 47 ~~requested, or statutory overnight delivery with confirmation of receipt e-mail, or facsimile."~~

48 SECTION 2.

49 Said chapter is further amended by revising Code Section 44-14-473, relating to effect of
 50 covenant not to bring an action, action to enforce lien, limitation, and affidavit of payment,
 51 as follows:

52 "44-14-473.

53 (a) No release of the cause or causes of action or of any judgment thereon or any covenant
 54 not to bring an action thereon shall be valid or effectual against the lien created by Code
 55 Section 44-14-470 unless the holder thereof shall join therein or execute a release of the
 56 lien; and the claimant or assignee of the lien may enforce the lien by an action against the
 57 person, firm, or corporation liable for the damages or such person, firm, or corporation's
 58 insurer. If the claimant prevails in the action, the court ~~may~~ shall allow reasonable
 59 attorney's fees. The action shall be commenced against the person liable for the damages
 60 or such person's insurer within one year after the date the liability is finally determined by
 61 a settlement and upon actual notice of such settlement, by a release, by a covenant not to
 62 bring an action, or by the judgment of a court of competent jurisdiction.

63 (b) No release or covenant not to bring an action which is made before or after the patient
64 was discharged from the hospital, nursing home, or provider of traumatic burn care medical
65 practice or, with respect to a physician practice, which is made after the patient first sought
66 treatment from the physician practice for the injuries shall be effective against the lien
67 perfected in accordance with Code Section 44-4-471, if such lien is perfected prior to the
68 date of the release, covenant not to bring an action, or settlement unless consented to by the
69 lien claimant; provided, however, that any person, firm, or corporation which consummates
70 a settlement, release, or covenant not to bring an action with the person to whom hospital,
71 nursing home, physician practice, or traumatic burn care medical practice care, treatment,
72 or services were furnished and which first procures from the injured party an affidavit as
73 prescribed in subsection (c) of this Code section shall not be bound or otherwise affected
74 by the lien except as provided in subsection (c) of this Code section, regardless of when the
75 settlement, release, or covenant not to bring an action was consummated.

76 (c) The affidavit shall affirm:

77 (1) That all hospital, nursing home, physician practice, or provider of traumatic burn care
78 medical practice bills incurred for treatment for the injuries for which a settlement is
79 made have been fully paid; and

80 (2) The county of residence of such affiant, if a resident of this state;
81 provided, however, that the person taking the affidavit shall not be protected thereby where
82 the affidavit alleges the county of the affiant's residence and the lien of the claimant is at
83 such time on file in the office of the clerk of the superior court of the county and is
84 recorded in the name of the patient as it appears in the affidavit."

85 **SECTION 3.**

86 All laws and parts of laws in conflict with this Act are repealed.