

By: Senator(s) Farris

To: Insurance

## SENATE BILL NO. 2736

1 AN ACT TO CODIFY SECTION 41-9-121, MISSISSIPPI CODE OF 1972,  
2 TO CREATE A LIEN UPON ALL CLAIMS AND CAUSES OF ACTION OF AN  
3 INJURED PERSON FOR THE AMOUNT OF ANY PORTION OF THE HOSPITAL BILL  
4 THAT IS OWED BY SUCH PERSON TO THE HOSPITAL; TO PROVIDE FOR  
5 PAYMENTS BY THIRD-PARTY PAYORS TO HOSPITALS IN SUCH SITUATIONS;  
6 AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** The following provision shall be codified as

9 Section 41-9-121, Mississippi Code of 1972:

10 41-9-121. (1) **Injured person defined.** For purposes of this  
11 section, "injured person" shall mean any natural person who has  
12 been injured or killed or has become sick or diseased under  
13 circumstances creating a cause of action in favor of the injured  
14 person against any person, firm or corporation third party.

15 (2) **Hospital lien.** Each hospital licensed by the  
16 Mississippi State Department of Health that renders service in the  
17 treatment, care and/or maintenance of an injured person shall,  
18 upon admission of such patient, have a lien upon all claims and  
19 causes of action of the injured person for the amount of any  
20 portion of the hospital bill that, at the time of discharge of  
21 such injured person, (a) is unpaid and (b) the patient or his  
22 third-party payor is legally obligated to pay. The hospital  
23 lienor shall be entitled to recover the unpaid amount of its bill  
24 for the treatment, care and/or maintenance of the injured person  
25 that the injured person is legally obligated to pay from the  
26 proceeds that may result from the exercise of any rights of  
27 recovery by or on behalf of the injured person. The injured  
28 person shall execute and deliver instruments and papers and do  
29 whatever is necessary to secure the hospital lienor's rights to



30 such recovery and shall do nothing to prejudice the rights of the  
31 hospital lienor. No judgment, award, settlement or compromise  
32 secured by or on behalf of an injured person shall be satisfied  
33 without the injured person or his or her authorized representative  
34 first (a) satisfying the hospital lien from such monies received  
35 or to be received from such judgment, award, settlement or  
36 compromise and (b) securing a release from the hospital lienor  
37 evidencing the payment or extinction of the lien.

38 No judgment, award, settlement or compromise received by or  
39 on behalf of the injured person shall be binding upon or affect  
40 the rights of the hospital lienor against the third party unless  
41 the hospital's lien is satisfied or extinguished. Any proceeds of  
42 any judgment, award, settlement or compromise received by or on  
43 behalf of an injured person in the absence of a release or  
44 instrument of satisfaction of lien executed by the hospital lienor  
45 shall constitute conclusive evidence of the liability of the third  
46 party to the hospital for the amount of the lien, and the hospital  
47 lienor, in litigating its claim against the third party, shall be  
48 required only to prove the amount and correctness of its claim  
49 relating to its charges for the treatment, care and/or maintenance  
50 of the injured person that remain unpaid and that the injured  
51 person is legally obligated to pay.

52 The hospital lien created under this section exists by virtue  
53 of the relation of the parties and the services rendered, and  
54 without any writing, or if in writing, without recording; and the  
55 rights and liens conferred may be asserted and enforced by the  
56 assigns and personal representatives of the lienor.

57 Notwithstanding anything in this section to the contrary, in  
58 no event shall the total amount a hospital recovers as a result of  
59 its lien under this section exceed one-third (1/3) of the amount  
60 of the verdict, judgment, award, settlement or compromise secured  
61 by or on behalf of the injured person on his or her claim or right  
62 of action.



63           As long as the charges for the treatment, care and/or  
64 maintenance of the injured person that the injured person or his  
65 third-party payor is legally obligated to pay are unpaid, nothing  
66 herein shall be construed to diminish or otherwise restrict the  
67 rights of the hospital to pursue payment of those charges in its  
68 regular course of business.

69           (3) **Payments by third-party payors.** In the event an injured  
70 person has healthcare coverage with a third-party payor, and as a  
71 result of such coverage, such third-party payor is legally  
72 obligated to pay the hospital for all or a portion of the  
73 treatment, care and maintenance delivered by the hospital to the  
74 injured person, then in such event the third-party payor shall  
75 make such payment to the hospital within the same time period it  
76 would otherwise make payment without taking into account the  
77 possibility of a monetary recovery by the injured person from the  
78 wrongdoer. In no event can a third-party payor withhold from the  
79 hospital or the injured party monies that it is legally obligated  
80 to pay because of the anticipation of a verdict, judgment, award,  
81 settlement or compromise that may be secured by or on behalf of  
82 the injured person on his or her claim or cause of action.

83           **SECTION 2.** This act shall take effect and be in force from  
84 and after July 1, 2002.

