

By: Senator(s) Farris

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2134

1 AN ACT TO CREATE A LIEN UPON ALL CLAIMS AND CAUSES OF ACTION  
2 OF AN INJURED PERSON FOR THE AMOUNT OF ANY PORTION OF THE HEALTH  
3 CARE PROVIDER BILL THAT IS OWED BY SUCH PERSON; TO PROVIDE FOR  
4 PAYMENTS BY THIRD-PARTY PAYORS TO HEALTH CARE PROVIDERS IN SUCH  
5 SITUATIONS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** (1) **Definitions.** For purposes of this section:

8 (a) "Injured person" shall mean any natural person who  
9 has been injured or killed or has become sick or diseased under  
10 circumstances creating a cause of action in favor of the injured  
11 person against any person, firm or corporation third party.

12 (b) "Health care provider" means a licensed physician,  
13 osteopath, dentist, hospital, nurse, pharmacist, podiatrist,  
14 optometrist or chiropractor.

15 (2) **Health care provider lien.** Each health care provider  
16 that renders service in the treatment, care and/or maintenance of  
17 an injured person shall have a lien upon all claims and causes of  
18 action of the injured person for the amount of any portion of the  
19 health care provider bill that (a) is unpaid and (b) the patient  
20 or his third-party payor is legally obligated to pay. Such lien  
21 and amount thereof shall be subject to the amount of payment as  
22 contractually agreed to by the health care provider and the third  
23 party payor as payment in full for services provided by the health  
24 care provider to the injured person. The health care provider  
25 lienor shall be entitled to recover the unpaid amount of its bill  
26 for the treatment, care and/or maintenance of the injured person  
27 that the injured person is legally obligated to pay from the  
28 proceeds that may result from the exercise of any rights of



29 recovery by or on behalf of the injured person. The injured  
30 person shall execute and deliver instruments and papers and do  
31 whatever is necessary to secure the health care provider lienor's  
32 rights to such recovery and shall do nothing to prejudice the  
33 rights of the health care provider lienor. No judgment, award,  
34 settlement or compromise secured by or on behalf of an injured  
35 person shall be satisfied without the injured person or his or her  
36 authorized representative first (a) satisfying the health care  
37 provider lien from such monies received or to be received from  
38 such judgment, award, settlement or compromise and (b) securing a  
39 release from the health care provider lienor evidencing the  
40 payment or extinction of the lien.

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

56 The health care provider lien created under this section  
57 exists by virtue of the relation of the parties and the services  
58 rendered; and the rights and liens conferred may be asserted and  
59 enforced by the assigns and personal representatives of the  
60 lienor.



61 Notwithstanding anything in this section to the contrary, a  
62 lien created under this section shall not be effective unless the  
63 health care provider lienor notifies the injured person by sending  
64 written notice within one (1) year from the date of the bill for  
65 the service rendered or ten (10) days prior to any recovery by the  
66 injured party, whichever occurs first, and a record of the notice  
67 is filed with the Secretary of State within the actual timeframes.  
68 The Secretary of State shall keep a record of all such filings,  
69 indexed by the name of the injured parties, available for public  
70 inspection. The Secretary of State may charge the health care  
71 provider lienor a fee in the amount of Ten Dollars (\$10.00) for  
72 each filing to cover the cost of maintaining the filing records.

73 Notwithstanding anything in this section to the contrary, in  
74 no event shall the total amount recovered by a health care  
75 provider as a result of a lien under this section, or by more than  
76 one (1) provider as a result of multiple liens, exceed one-third  
77 (1/3) of the amount of the verdict, judgment, award, settlement or  
78 compromise secured by or on behalf of the injured person on his or  
79 her claim or right of action.

80 As long as the charges for the treatment, care and/or  
81 maintenance of the injured person that the injured person or his  
82 third-party payor is legally obligated to pay are unpaid, and  
83 subject to the terms and conditions of a health care contract,  
84 nothing herein shall be construed to diminish or otherwise  
85 restrict the rights of the health care provider to pursue payment  
86 of those charges in its regular course of business.

87 Nothing in this section shall be construed to create a health  
88 care provider lien upon any limited benefit health insurance  
89 policy, nor to require satisfaction of the health care provider  
90 lien from monies received under any limited benefit health  
91 insurance policy.

92 (3) **Payments by third-party payors.** In the event an injured  
93 person has health care coverage with a third-party payor, and as a



94 result of such coverage, such third-party payor is legally  
95 obligated to pay the health care provider for all or a portion of  
96 the treatment, care and maintenance delivered by the health care  
97 provider to the injured person, then in such event the third-party  
98 payor shall make such payment to the health care provider within  
99 the same time period it would otherwise make payment without  
100 taking into account the possibility of a monetary recovery by the  
101 injured person from the wrongdoer. In no event can a third-party  
102 payor withhold from the health care provider or the injured party  
103 monies that it is legally obligated to pay because of the  
104 anticipation of a verdict, judgment, award, settlement or  
105 compromise that may be secured by or on behalf of the injured  
106 person on his or her claim or cause of action.

107       **SECTION 2.** This act shall take effect and be in force from  
108 and after July 1, 2003.

