

By: Senator(s) Farris

To: Insurance

## SENATE BILL NO. 2134

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 HEALTH CARE  
4 PROVIDER BILL THAT IS OWED BY SUCH PERSON; TO PROVIDE FOR PAYMENTS  
5 BY THIRD-PARTY PAYORS TO HEALTH CARE PROVIDERS 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) **Definitions.** For purposes of this section:

11 (a) "Injured person" shall mean any natural person who  
12 has 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 (b) "Health care provider" means a licensed physician,  
16 osteopath, dentist, hospital, nurse, pharmacist, podiatrist,  
17 optometrist or chiropractor.

18 (2) **Health care provider lien.** Each health care provider  
19 that renders service in the treatment, care and/or maintenance of  
20 an injured person shall have a lien upon all claims and causes of  
21 action of the injured person for the amount of any portion of the  
22 health care provider bill that (a) is unpaid and (b) the patient  
23 or his third-party payor is legally obligated to pay. The health  
24 care provider lienor shall be entitled to recover the unpaid  
25 amount of its bill for the treatment, care and/or maintenance of  
26 the injured person that the injured person is legally obligated to  
27 pay from the proceeds that may result from the exercise of any  
28 rights of recovery by or on behalf of the injured person. The  
29 injured person shall execute and deliver instruments and papers



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

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

55 The health care provider lien created under this section  
56 exists by virtue of the relation of the parties and the services  
57 rendered, and without any writing, or if in writing, without  
58 recording; 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, in  
62 no event shall the total amount a health care provider recovers as



63 a result of its lien under this section exceed one-third (1/3) of  
64 the amount of the verdict, judgment, award, settlement or  
65 compromise secured by or on behalf of the injured person on his or  
66 her claim or right of action.

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

73 Nothing in this section shall be construed to create a health  
74 care provider lien upon any limited benefit health insurance  
75 policy, nor to require satisfaction of the health care provider  
76 lien from monies received under any limited benefit health  
77 insurance policy.

78 (3) **Payments by third-party payors.** In the event an injured  
79 person has health care coverage with a third-party payor, and as a  
80 result of such coverage, such third-party payor is legally  
81 obligated to pay the health care provider for all or a portion of  
82 the treatment, care and maintenance delivered by the health care  
83 provider to the injured person, then in such event the third-party  
84 payor shall make such payment to the health care provider within  
85 the same time period it would otherwise make payment without  
86 taking into account the possibility of a monetary recovery by the  
87 injured person from the wrongdoer. In no event can a third-party  
88 payor withhold from the health care provider or the injured party  
89 monies that it is legally obligated to pay because of the  
90 anticipation of a verdict, judgment, award, settlement or  
91 compromise that may be secured by or on behalf of the injured  
92 person on his or her claim or cause of action.

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

