

Senate Bill 451

By: Senators Jackson of the 50th, Dean of the 31st, Starr of the 44th, Hooks of the 14th and Crofts of the 17th

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

To amend Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to hospitals and nursing homes, so as to provide that hospital liens are liens against patients' causes of action and not patients nor their property or assets; to provide for notice of hospital liens; to provide for the filing time for hospital liens; to provide for the effect of such notice and filing; to provide that hospital liens be segregated from other liens on the records of the clerk of superior court; to provide for the enforcement of such liens against insurers; to provide that releases or covenants not to sue made before or after the discharge of the patient from the hospital shall not affect such liens in certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to hospitals and nursing homes, is amended by striking subsection (b) of Code Section 44-14-470, relating to liens on causes of action accruing to injured person for costs of care and treatment of injuries arising out of such causes of action, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) Any person, firm, hospital authority, or corporation operating a hospital or nursing home in this state shall have a lien for the reasonable charges for hospital or nursing home care and treatment of an injured person, which lien shall be upon any and all causes of action accruing to the person to whom the care was furnished or to the legal representative of such person on account of injuries giving rise to the causes of action and which necessitated the hospital or nursing home care, subject, however, to any attorney's lien. The lien provided for in this subsection is only a lien against such causes of action and shall not be a lien against such injured person, such legal representative, or any other property or assets of such persons and shall not be evidence of such person's failure to pay a debt.

1 This subsection shall not be construed to interfere with the exemption from this part
2 provided by Code Section 44-14-474."

3 SECTION 2.

4 Said part is further amended by striking Code Section 44-14-471, relating to filing of verified
5 statement, in its entirety and inserting in lieu thereof a new Code Section 44-14-471 to read
6 as follows:

7 "44-14-471.

8 (a) In order to perfect the lien provided for in Code Section 44-14-470, the operator of the
9 hospital;

10 (1) within Within 30 days after the person has been discharged therefrom, shall provide
11 written notice to the patient and, to the best of the hospital claimant's knowledge, the
12 persons, firms, corporations, and their insurers claimed by the injured person or the legal
13 representative of the injured person to be liable for damages arising from the injuries and
14 shall include in such notice a statement that the lien is not a lien against the patient or any
15 other property or assets of the patient and is not evidence of the patient's failure to pay
16 a debt. Such notice shall be sent to all such persons and entities by first class and
17 certified mail or statutory overnight delivery, return receipt requested; and

18 (2) shall Shall file, no sooner than 15 days after the date of the written notice provided
19 for in this Code section, in the office of the clerk of the superior court of the county in
20 which the hospital is located and in the county wherein the patient resides, if a resident
21 of this state, a verified statement setting forth the name and address of the patient as it
22 appears on the records of such hospital; the name and location of the hospital and the
23 name and address of the operator thereof; the dates of admission and discharge of the
24 patient therefrom; and the amount claimed to be due for the hospital care; ~~and, to the best~~
25 ~~of the claimant's knowledge, the names and addresses of all persons, firms, or~~
26 ~~corporations claimed by the injured person or the legal representative of the person to be~~
27 ~~liable for damages arising from the injuries. Such claimant shall also, within one day after~~
28 ~~the filing of the claim or lien, mail a copy thereof to any person, firm, or corporation~~
29 ~~claimed to be liable for the damages, said copy to be mailed to the address given in the~~
30 ~~statement.~~

31 (b) The filing of the claim or lien shall be notice thereof to all persons, firms, or
32 corporations liable for the damages, whether or not they ~~are named in the claim or lien~~
33 received the written notice provided for in this Code section. The failure to perfect such
34 lien in accordance with this Code section shall invalidate such lien."

SECTION 3.

Said part is further amended by striking Code Section 44-14-472, relating to duties of clerk, in its entirety and inserting in lieu thereof a new Code Section 44-14-472 to read as follows:

"44-14-472.

The clerk of the superior court shall endorse the date and hour of filing on the statement filed pursuant to Code Section 44-14-471; and, at the expense of the county, ~~he~~ the clerk shall provide a hospital lien book with a proper index in which ~~he~~ the clerk shall enter the date and hour of the filing; the names and addresses of the hospital, the operators thereof, and the patient; and the amount claimed; ~~and the names and addresses of those claimed to be liable for damage.~~ Notwithstanding the provisions in Code Section 44-2-2, a lien provided for in Code Section 44-14-470 shall be filed in a separate docket from and shall not be commingled with judgment liens, materialman's liens, mechanic's liens, tax liens, lis pendens notices, or any other liens that attach to the person or property of an individual. The information shall be recorded in the name of the patient. The clerk shall receive a fee as required by subparagraph (f)(1)(A) of Code Section 15-6-77 as his or her fee for such filing."

SECTION 4.

Said part is further amended by striking subsections (a) and (b) of Code Section 44-14-473, relating to effect of covenant not to bring an action, release, settlement, etc., and inserting in lieu thereof new subsections (a) and (b) to read as follows:

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

(b) No release or covenant not to bring an action which is made ~~within ten days~~ before or after the patient was discharged from the hospital shall be effective against the lien perfected in due time as provided in subsection (a) of this Code section, regardless of whether the release, covenant not to bring an action, or settlement was made prior to the time of the filing of the lien as specified in Code Sections 44-14-470 and 44-14-471; provided, however, that any person, firm, or corporation which consummates a settlement,

1 release, or covenant not to bring an action with the person to whom hospital service or
2 treatment was furnished and which first procures therefrom an affidavit as prescribed in
3 subsection (c) of this Code section shall not be bound or otherwise affected by the lien
4 except as provided in subsection (c) of this Code section, regardless of when the settlement,
5 release, or covenant not to bring an action was consummated."

6 **SECTION 5.**

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