

Senate Bill 306

By: Senators Hamrick of the 30th and Harp of the 29th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia  
2 Annotated, relating to hospital and nursing home liens, so as to change notice and filing  
3 provisions with respect to certain liens; to change a provision relating to the effect of release  
4 or covenant not to sue on hospitals and other medical provider liens; to change a provision  
5 relating to the effect of this part on a settlement or release entered into before entry into a  
6 hospital, nursing home, or traumatic burn care medical facility; to provide for related matters;  
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,  
11 relating to hospital and nursing home liens, is amended by striking Code Section 44-14-471,  
12 relating to filing of verified statement, and inserting in lieu thereof the following:

13 "44-14-471.

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

17 (1) ~~Shall, not less than 30 days prior to the date of filing the statement required under~~  
18 ~~paragraph (2) of this subsection,~~ provide written notice to the patient and, to the best of  
19 the claimant's knowledge, the persons, firms, corporations, and their insurers claimed by  
20 the injured person or the legal representative of the injured person to be liable for  
21 damages arising from the injuries and shall include in such notice a statement that the lien  
22 is not a lien against the patient or any other property or assets of the patient and is not  
23 evidence of the patient's failure to pay a debt. Such notice shall be sent to all such  
24 persons and entities by first-class and certified mail or statutory overnight delivery, return  
25 receipt requested within the following time periods:

1 (A) If the notice is given by a hospital, nursing home, or provider of traumatic burn  
 2 care medical practice, then the notice shall be given within 60 days after the person has  
 3 been discharged from the facility; or

4 (B) If the notice is given by a physician practice, then the notice shall be given within  
 5 60 days after the person first sought treatment from the physician practice for injury;  
 6 and

7 (2) Shall file, no ~~sooner than 30 days~~ later than 60 days after the date of the written  
 8 notice provided for in this Code section, in the office of the clerk of the superior court of  
 9 the county in which the hospital, nursing home, physician practice, or provider of  
 10 traumatic burn care medical practice is located and in the county wherein the patient  
 11 resides, if a resident of this state, a verified statement setting forth the name and address  
 12 of the patient as it appears on the records of the hospital, nursing home, physician  
 13 practice, or provider of traumatic burn care medical practice; the name and location of  
 14 the hospital, nursing home, physician practice, or provider of traumatic burn care medical  
 15 practice and the name and address of the operator thereof; the dates of admission and  
 16 discharge of the patient therefrom or with respect to a physician practice, the dates of  
 17 treatment; and the amount claimed to be due for the hospital, nursing home, physician  
 18 practice, or provider of traumatic burn care medical practice care.

19 (b) The filing of the claim or lien shall be notice thereof to all persons, firms, or  
 20 corporations liable for the damages, whether or not they received the written notice  
 21 provided for in this Code section. The failure to perfect such lien by complying with the  
 22 notice and filing provisions of paragraphs (1) and (2) of subsection (a) of this Code section  
 23 ~~in accordance with this Code section~~ shall invalidate such lien."

## 24 SECTION 2.

25 Said part is further amended by striking Code Section 44-14-473, relating to the effect of a  
 26 covenant not to bring an action, and inserting in lieu thereof the following:

27 "44-14-473.

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

1 settlement, by a release, by a covenant not to bring an action, or by the judgment of a court  
2 of competent jurisdiction.

3 (b) No release or covenant not to bring an action which is made before or after the patient  
4 was discharged from the hospital, nursing home, ~~physician practice~~, or provider of  
5 traumatic burn care medical practice or, with respect to a physician practice, which is made  
6 after the patient first sought treatment from the physician practice for the injuries shall be  
7 effective against the lien perfected ~~in due time as provided in subsection (a) of this Code~~  
8 ~~section, regardless of whether the~~ prior to the date of the release, covenant not to bring an  
9 action, or settlement was made prior to the time of the filing of the lien as specified in Code  
10 ~~Sections 44-14-470 and 44-14-471~~ unless consented to by the lien claimant; provided,  
11 however, that any person, firm, or corporation which consummates a settlement, release,  
12 or covenant not to bring an action with the person to whom hospital, nursing home,  
13 physician practice, or traumatic burn care medical practice care, treatment, or services were  
14 furnished and which first procures ~~therefrom~~ from the injured party an affidavit as  
15 prescribed in subsection (c) of this Code section shall not be bound or otherwise affected  
16 by the lien except as provided in subsection (c) of this Code section, regardless of when the  
17 settlement, release, or covenant not to bring an action was consummated.

18 (c) The affidavit shall affirm:

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

22 (2) The county of residence of such affiant, if a resident of this state;

23 provided, however, that the person taking the affidavit shall not be protected thereby where  
24 the affidavit alleges the county of the affiant's residence and the lien of the claimant is at  
25 such time on file in the office of the clerk of the superior court of the county and is  
26 recorded in the name of the patient as it appears in the affidavit."

### 27 SECTION 3.

28 Said part is further amended by striking Code Section 44-14-475, relating to the effect of this  
29 part on a settlement before entry into a hospital, nursing home, or traumatic burn care  
30 medical facility, and inserting in lieu thereof the following:

31 "44-14-475.

32 No settlement or release entered into or executed prior to the entry of the injured party into  
33 the hospital, nursing home, ~~physician practice~~, or facility which provides traumatic burn  
34 care medical practice or prior to the time the patient first sought treatment from the  
35 physician practice for the injuries shall be affected by or subject to the terms of this part."

- 1 **SECTION 4.**
- 2 All laws and parts of laws in conflict with this Act are repealed.