

1988

Session Law 88-539

Florida Senate & House of Representatives

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By Representative Martin

1 A bill to be entitled
2 An act relating to Alachua County; providing
3 for liens in favor of any nonprofit corporation
4 operating a charitable hospital in said county
5 upon causes of action, suits, claims,
6 counterclaims, and demands, accruing to
7 patients therein, or their legal
8 representatives, and upon judgments,
9 settlements, and settlement agreements, on
10 account of illness or injuries of such
11 patients, for all reasonable charges for
12 hospital care, treatment, and maintenance
13 necessitated by such illness or injuries;
14 providing for method of perfecting and
15 enforcing such liens, and recovery of costs,
16 attorney's fees, and expenses, and where suits
17 thereon may be maintained; requiring claims for
18 lien to be recorded and providing for fees for
19 recording; providing that no release or
20 satisfaction shall be valid as against lien
21 unless lienholder joins therein or executes
22 release; providing that acceptance of release
23 or satisfaction of any cause of action, suit,
24 claim, counterclaim, demand, or judgment and
25 any settlement in absence of release or
26 satisfaction of lien shall prima facie
27 constitute impairment of such lien, and giving
28 lienholder right of action at law for damages
29 on account of such impairment; providing for
30 recovery from one accepting release or
31 satisfaction or making settlement, providing

1 for no recovery of damages for hospital care,
2 treatment, and maintenance, unless claimant
3 therefor has paid costs thereof, except in
4 certain cases; providing for intervention by
5 lienholder and verdict and judgment in favor of
6 lienholder in certain cases; exempting from
7 provisions of this act matters within purview
8 of the workers' compensation law of this state;
9 providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Any nonprofit corporation operating a
14 hospital that has qualified pursuant to s. 501(c)(3) of the
15 Internal Revenue Code as a charitable hospital, located in
16 Alachua County, shall be entitled to a lien for all reasonable
17 charges for hospital care, treatment, and maintenance of ill
18 or injured persons upon any and all causes of action, suits,
19 claims, counterclaims, and demands accruing to such persons or
20 the legal representatives of such persons, and upon all
21 judgments, settlements, and settlement agreements rendered or
22 entered into by virtue thereof, on account of illness or
23 injuries giving rise to such causes of action, suits, claims,
24 counterclaims, demands, judgment, settlements, or settlement
25 agreements and which necessitate or shall have necessitated
26 such hospital care, treatment and maintenance.

27 Section 2. In order to perfect such a lien, the
28 executive office or agent of the hospital, before any such
29 person shall have been discharged from said hospital or within
30 10 days after such discharge, shall file in the office of the
31 Clerk of the Circuit Court of Alachua County a verified claim

1 in writing setting forth the name and address of such patient,
2 as it shall appear on the records of said hospital, the name
3 and location of said hospital, and the name and address of the
4 executive office or agent of said hospital, the dates of
5 admission to and discharge of such patient therefrom, the
6 amount claimed to be due for such hospital care, treatment,
7 and maintenance, and, to the best knowledge of the person
8 signing such claim, the names and addresses of all persons,
9 firms, or corporations who may be claimed by such ill or
10 injured person, or by the legal representative of such person,
11 to be liable on account of such illness or injuries. At the
12 same time that such claim is filed with the clerk of the
13 circuit court, a copy thereof shall be mailed by the hospital
14 to the ill or injured person, his attorney, if known, and to
15 all persons, firms, or corporations named in such claim. The
16 filing and mailing of such claim in accordance with this
17 section shall be notice thereof to all persons, firms, or
18 corporations who may be liable on account of such illness or
19 injuries, whether or not they are named in such claim or lien,
20 and whether or not a copy of such claim shall have been
21 received by them.

22 Section 3. The Clerk of the Circuit Court of Alachua
23 County shall endorse on such claim the date and hour of filing
24 and shall record such claim in the Official Records of Alachua
25 County. He shall be paid by the claimant as his fee for such
26 filing and recording of each claim the same fee as provided
27 for filing and recording other instruments under the recording
28 laws.

29 Section 4. No release or satisfaction of any action,
30 suit, claim, counterclaim, demand, judgment, settlement, or
31 settlement agreement, or of any of them, shall be valid or

1 effectual as against such lien unless such lienholder shall
2 join therein or execute a release of such lien. Any
3 acceptance of a release or satisfaction of any such cause of
4 action, suit, claim, counterclaim, demand, or judgment and any
5 settlement of any of the foregoing in the absence of a release
6 of satisfaction of the lien referred to in this act shall
7 prima facie constitute an impairment of such lien and the
8 lienholder shall be entitled to an action at law for damages
9 on account of such impairment, and in such action may recover
10 from the one accepting such release or satisfaction or making
11 such settlement the reasonable cost of such hospital care,
12 treatment, and maintenance. Satisfaction of any judgment
13 rendered in favor of the lienholder in any such action shall
14 operate as a satisfaction of the lien. Any action by the
15 lienholder shall be brought in the court having jurisdiction
16 of the amount of the lienholder's claim and may be brought and
17 maintained in the county wherein the lienholder has his, its,
18 or their residence or place of business. If the lienholder
19 shall prevail in such action, the lienholder shall be entitled
20 to recover from the defendant, in addition to costs otherwise
21 allowed by law, all reasonable attorney's fees and expenses
22 incident to the matter.

23 Section 5. No person shall be entitled to recover or
24 receive damages on account of hospital care, treatment, and
25 maintenance, provided by the hospital, unless he shall
26 affirmatively show that he has paid the cost thereof; however,
27 in any action, suit, or counterclaim brought on account of
28 illness or injury, the plaintiff or counterclaimant may
29 include as an item of damages the cost of such hospital care,
30 treatment, and maintenance, if prior to the trial of the
31 action he shall have notified the lienholder referred to in

1 this act of the pendency of such action or counterclaim;
2 whereupon such lienholder shall have the right, without leave
3 of court, to intervene in the case and prove the reasonable
4 cost of such hospital care, treatment, and maintenance. Any
5 verdict that may be rendered in favor of the plaintiff or
6 counterclaimant shall set forth the amount the jury finds to
7 be due the lienholder for such hospital care, treatment, and
8 maintenance and the name of such lienholder. Any judgment
9 rendered in the case in favor of the plaintiff or
10 counterclaimant shall also be in favor of the lienholder in
11 the amount set forth by the jury's verdict.

12 Section 6 The provisions of this act shall not be
13 applicable to accidents or injuries within the purview of the
14 workers' compensation laws of this state.

15 Section 7 This act shall take effect upon becoming a
16 law.

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22 per single page in compliance with the Rules and for
the information of members of the Legislature and the public.

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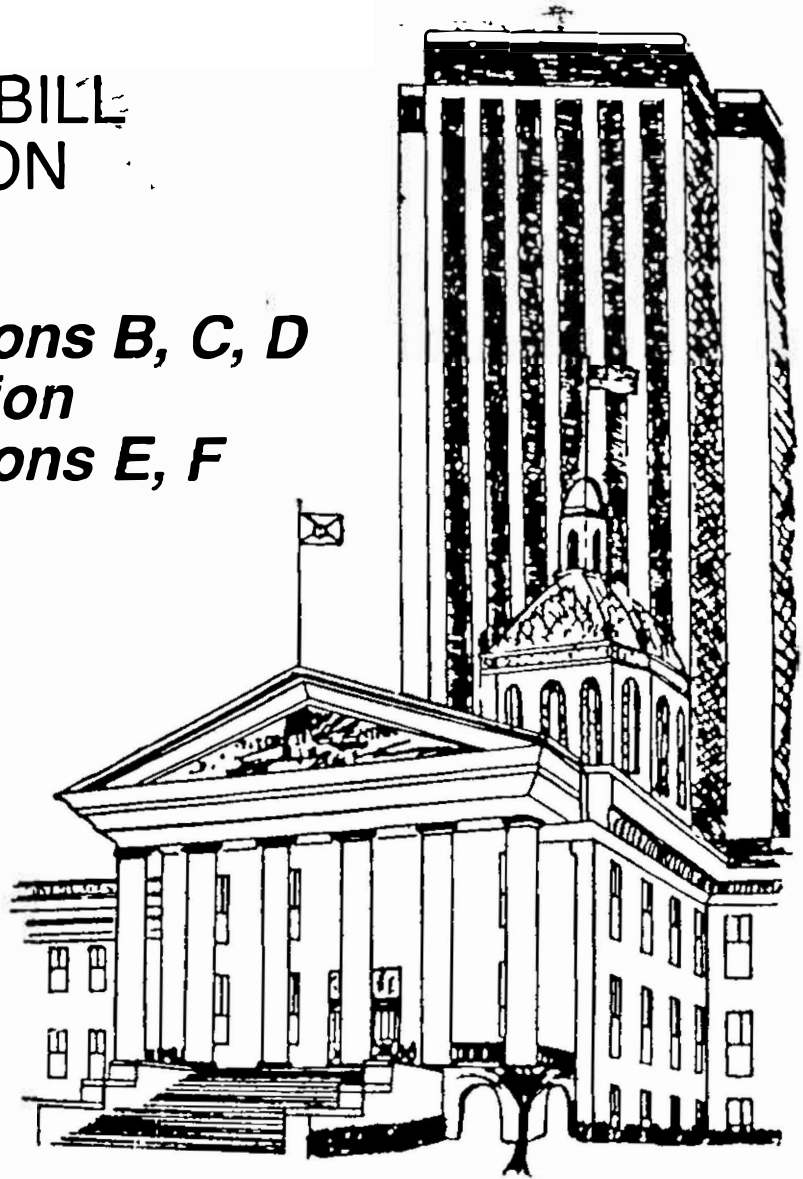
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FLORIDA LEGISLATURE

FINAL LEGISLATIVE BILL INFORMATION

***1987 Special Sessions B, C, D
1988 Regular Session
1988 Special Sessions E, F***



prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826 — 488-4371

HISTORY OF HOUSE BILLS

H 1408 (CONTINUED)

04/21/88 HOUSE On Committee agenda—Finance & Taxation, 04/25/88, 1.15 pm, 21-HOB, or 04/27/88, 10 00 am, if not heard on 04/25/88

04/25/88 HOUSE Preliminary Committee Action by Finance & Taxation Favorable

04/26/88 HOUSE Comm Report Favorable by Finance & Taxation -HJ 261, Now in Appropriations -HJ 261

04/29/88 HOUSE On Committee agenda—Appropriations, 05/03/88, 1 15 pm, Morris Hall

05/04/88 HOUSE Comm Report Favorable by Appropriations, placed on Calendar -HJ 339

05/16/88 HOUSE Placed on Special Order Calendar

05/17/88 HOUSE Read second time -HJ 537

05/18/88 HOUSE Read third time, Passed, YEAS 93 NAYS 19 -HJ 552

05/19/88 SENATE In Messages

05/23/88 SENATE Received, referred to Commerce, Finance, Taxation and Claims, Appropriations -SJ 363

05/26/88 SENATE Withdrawn from Commerce, Finance, Taxation and Claims, Appropriations, Substituted for SB 1246, Passed, YEAS 27 NAYS 9 -SJ 449, Immediately certified -SJ 449

05/26/88 Ordered enrolled

06/01/88 Signed by Officers and presented to Governor -HJ 1196

06/17/88 Became Law without Governor's Signature, Chapter No 88-120

H 1409 GENERAL BILL/ENG by Regulated Industries & Licensing, Meffert (Identical CS/S 335, Compare H 1400, ENG/S 240)

State Lottery, prohibits disclosure & authorizes disclosure of certain info re lottery under specified circumstances, revises provisions which require certain vendors to post bond or deposit securities, authorizes filing of irrevocable letter of credit, authorizes use of secretary's facsimile signature on contracts with retailers, revises provisions which prohibit certain persons associated with vendors from purchasing lottery tickets, etc Amends Ch 24, 18 10 Effective Date 07/06/88

04/11/88 HOUSE Note This bill amends 1988 Regular Session SB 240 (Ch 88-8), Filed

04/18/88 HOUSE Introduced, referred to Finance & Taxation -HJ 180

04/28/88 HOUSE Withdrawn from Finance & Taxation -HJ 279, Placed on Calendar

05/19/88 HOUSE Placed on Special Order Calendar, Read second time -HJ 622, Amendment pending -HJ 622

05/24/88 HOUSE Pending amendment withdrawn, Amendments adopted -HJ 666

05/25/88 HOUSE Read third time, Amendment adopted, Passed as amended, YEAS 112 NAYS 5 -HJ 683

05/25/88 SENATE In Messages

05/30/88 SENATE Received, referred to Commerce, Rules and Calendar, Appropriations -SJ 471

06/03/88 SENATE Withdrawn from Commerce, Rules and Calendar, Appropriations, Substituted for CS/SB 335 -SJ 900; Amendments adopted -SJ 901 & -SJ 995, Passed as amended, YEAS 34 NAYS 0 -SJ 996

06/03/88 HOUSE In Messages

06/06/88 HOUSE Concurred, Passed as further amended, YEAS 115 NAYS 1 -HJ 1545

06/06/88 Ordered engrossed, then enrolled

06/21/88 Signed by Officers and presented to Governor

07/06/88 Approved by Governor, Chapter No 88-374

H 1410 GENERAL BILL by Corrections, Probation & Parole; Kelly (Similar S 1152, Compare ENG/H 1432, CS/S 1092)

Corrections/Inmate Work Programs; provides for prony of assignment of inmates to correctional work programs, provides for reimbursement to Corrections Dept. for expenses of incarcerating inmates, provides for funding nonbudget & nonapproved capital outlay budget items at certain institutions, requires approval of Corrections Secretary for certain expenditures Amends 946 009, 512 Effective Date: Upon becoming law.

04/11/88 HOUSE Filed

04/18/88 HOUSE Introduced, referred to Appropriations -HJ 180

05/16/88 HOUSE Subreferred to Subcommittee on HRS/Criminal Justice

05/23/88 HOUSE On Committee agenda—Appropriations, 05/24/88, 8 00 am, Morris Hall—For ratification of subreferral

06/07/88 HOUSE Died in Committee on Appropriations

H 1411 LOCAL BILL/ENG by Ireland

Fort Myers Shores Fire District, (Lee Co) amends provision re deposit of proceeds of assessments & checks written on funds of Fort Myers Shores Fire Protection & Rescue District Effective Date 07/07/88

04/11/88 HOUSE Filed

04/18/88 HOUSE Introduced, referred to Community Affairs -HJ 180

05/02/88 HOUSE On Committee agenda—Community Affairs, 05/04/88, 8 00 am, 212-HOB

05/04/88 HOUSE Preliminary Committee Action by Community Affairs Favorable

05/05/88 HOUSE Comm Report Favorable by Community Affairs, placed on Calendar -HJ 359

H 1411 (CONTINUED)

05/17/88 HOUSE Placed on Local Calendar, Read second and third times, Passed, YEAS 117 NAYS 0 -HJ 526, Immediately certified -HJ 527

05/17/88 SENATE In Messages

05/24/88 SENATE Received, referred to Rules and Calendar -SJ 372

05/25/88 SENATE Considered by Rules and Calendar, placed on Local Calendar -SJ 375, Passed as amended, YEAS 39 NAYS 0 -SJ 400

05/26/88 HOUSE In Messages

06/02/88 HOUSE Concurred, Passed as amended, YEAS 114 NAYS 0 -HJ 1203

06/02/88 Ordered engrossed, then enrolled

06/21/88 Signed by Officers and presented to Governor

07/07/88 Became Law without Governor's Signature, Chapter No 88-538

H 1412 LOCAL BILL by Martin

Charitable Hospital/Nonprofit Corp., (Alachua Co) provides for liens in favor of any nonprofit corporation operating charitable hospital in Alachua Co upon causes of action, suits, claims, counterclaims, & demands, accruing to patients therein, or their legal representatives, & upon judgments, settlements, & settlement agreements, on account of illness of injuries of such patients, for all reasonable charges for hospital care, etc Effective Date 07/07/88

04/11/88 HOUSE Filed

04/18/88 HOUSE Introduced, referred to Community Affairs, Judiciary -HJ 181

05/25/88 HOUSE On Committee agenda—Community Affairs, 05/26/88, 8 00 am, 212-HOB

05/26/88 HOUSE Preliminary Committee Action by Community Affairs Favorable

05/27/88 HOUSE Comm Report Favorable by Community Affairs -HJ 906, Now in Judiciary -HJ 906

05/30/88 HOUSE Withdrawn from Judiciary -HJ 902, Placed on Calendar

05/31/88 HOUSE Placed on Local Calendar, Read second and third times -HJ 952, Passed, YEAS 119 NAYS 0 -HJ 953

05/31/88 SENATE In Messages

06/02/88 SENATE Received, referred to Rules and Calendar -SJ 720

06/03/88 SENATE Considered by Rules and Calendar, placed on Local Calendar -SJ 787, Passed, YEAS 36 NAYS 0 -SJ 923

06/03/88 Ordered enrolled

06/21/88 Signed by Officers and presented to Governor

07/07/88 Became Law without Governor's Signature, Chapter No 88-539

H 1413 LOCAL BILL by Bronson (Identical S 1220)

Osceola Co Law Library, repeals provision re creation of Osceola Co Law Library Effective Date. Upon becoming law

04/11/88 HOUSE Filed

04/18/88 HOUSE Introduced, referred to Community Affairs -HJ 181

06/07/88 HOUSE Died in Committee on Community Affairs, Iden/Sim./ Compare bill passed, refer to SB 1220 (Ch. 88-455)

H 1414 LOCAL BILL by Thomas (Identical S 1404)

South Venice Special Tax Road Dist., (Sarasota Co) deletes tax cap re South Venice Special Tax Road District Effective Date 06/18/88

04/11/88 HOUSE Filed

04/18/88 HOUSE Introduced, referred to Community Affairs, Finance & Taxation -HJ 181

05/09/88 HOUSE On Committee agenda—Community Affairs, 05/11/88, 1 15 pm, 212-HOB

05/11/88 HOUSE Preliminary Committee Action by Community Affairs Favorable

05/16/88 HOUSE Comm. Report. Favorable by Community Affairs -HJ 499, Now in Finance & Taxation -HJ 499

05/19/88 HOUSE Withdrawn from Finance & Taxation -HJ 595, Placed on Calendar

05/24/88 HOUSE Placed on Local Calendar; Read second and third times, Passed, YEAS 119 NAYS 0 -HJ 657

05/24/88 SENATE In Messages

05/25/88 SENATE Received, referred to Rules and Calendar -SJ 379, Immediately withdrawn from Rules and Calendar, Substituted for SB 1404, Passed, YEAS 39 NAYS 0 -SJ 395

05/26/88 Ordered enrolled

06/02/88 Signed by Officers and presented to Governor -HJ 1281

06/18/88 Became Law without Governor's Signature, Chapter No 88-540

H 1415 LOCAL BILL by Grindle; Stone; Drage; Bainter (Identical S 1177)

Civil Service Board/Membership, (Seminole Co) increases membership of Civil Service Board, deletes requirement that board members reside in county for 1 year prior to appointment, removes certain positions from unclassified service, removes certain age requirements for employment as deputy sheriff, increases number of board members required for approval of payment for certain expenses, deletes prohibition of soliciting, etc Effective Date Upon becoming law

04/11/88 HOUSE Filed

By Representative Martin

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2 An act relating to Alachua County; providing
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13 necessitated by such illness or injuries;
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16 attorney's fees, and expenses, and where suits
17 thereon may be maintained; requiring claims for
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23 or satisfaction of any cause of action, suit,
24 claim, counterclaim, demand, or judgment and
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2 treatment, and maintenance, unless claimant
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5 lienholder and verdict and judgment in favor of
6 lienholder in certain cases; exempting from
7 provisions of this act matters within purview
8 of the workers' compensation law of this state;
9 providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida;

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13 Section 1. Any nonprofit corporation operating a
14 hospital that has qualified pursuant to s. 501(c)(3) of the
15 Internal Revenue Code as a charitable hospital, located in
16 Alachua County, shall be entitled to a lien for all reasonable
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27 Section 2. In order to perfect such a lien, the
28 executive office or agent of the hospital, before any such
29 person shall have been discharged from said hospital or within
30 10 days after such discharge, shall file in the office of the
31 Clerk of the Circuit Court of Alachua County a verified claim

1 in writing setting forth the name and address of such patient,
2 as it shall appear on the records of said hospital, the name
3 and location of said hospital, and the name and address of the
4 executive office or agent of said hospital, the dates of
5 admission to and discharge of such patient therefrom, the
6 amount claimed to be due for such hospital care, treatment,
7 and maintenance, and, to the best knowledge of the person
8 signing such claim, the names and addresses of all persons,
9 firms, or corporations who may be claimed by such ill or
10 injured person, or by the legal representative of such person,
11 to be liable on account of such illness or injuries. At the
12 same time that such claim is filed with the clerk of the
13 circuit court, a copy thereof shall be mailed by the hospital
14 to the ill or injured person, his attorney, if known, and to
15 all persons, firms, or corporations named in such claim. The
16 filing and mailing of such claim in accordance with this
17 section shall be notice thereof to all persons, firms, or
18 corporations who may be liable on account of such illness or
19 injuries, whether or not they are named in such claim or lien,
20 and whether or not a copy of such claim shall have been
21 received by them.

22 Section 3. The Clerk of the Circuit Court of Alachua
23 County shall endorse on such claim the date and hour of filing
24 and shall record such claim in the Official Records of Alachua
25 County. He shall be paid by the claimant as his fee for such
26 filing and recording of each claim the same fee as provided
27 for filing and recording other instruments under the recording
28 laws.

Section 4. No release or satisfaction of any action,
30 suit, claim, counterclaim, demand, judgment, settlement, or
31 settlement agreement, or of any of them, shall be valid or

1 | effectual as against such lien unless such lienholder shall
2 | join therein or execute a release of such lien. Any
3 | acceptance of a release or satisfaction of any such cause of
4 | action, suit, claim, counterclaim, demand, or judgment and any
5 | settlement of any of the foregoing in the absence of a release
6 | of satisfaction of the lien referred to in this act shall
7 | prima facie constitute an impairment of such lien and the
8 | lienholder shall be entitled to an action at law for damages
9 | on account of such impairment, and in such action may recover
10 | from the one accepting such release or satisfaction or making
11 | such settlement the reasonable cost of such hospital care,
12 | treatment, and maintenance. Satisfaction of any judgment
13 | rendered in favor of the lienholder in any such action shall
14 | operate as a satisfaction of the lien. Any action by the
15 | lienholder shall be brought in the court having jurisdiction
16 | of the amount of the lienholder's claim and may be brought and
17 | maintained in the county wherein the lienholder has his, its,
18 | or their residence or place of business. If the lienholder
19 | shall prevail in such action, the lienholder shall be entitled
20 | to recover from the defendant, in addition to costs otherwise
21 | allowed by law, all reasonable attorney's fees and expenses
22 | incident to the matter.

23 | Section 5. No person shall be entitled to recover or
24 | receive damages on account of hospital care, treatment, and
25 | maintenance, provided by the hospital, unless he shall
26 | affirmatively show that he has paid the cost thereof; however,
27 | in any action, suit, or counterclaim brought on account of
28 | illness or injury, the plaintiff or counterclaimant may
29 | include as an item of damages the cost of such hospital care,
30 | treatment, and maintenance, if prior to the trial of the
31 | action he shall have notified the lienholder referred to in

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2 | whereupon such lienholder shall have the right, without leave
3 | of court, to intervene in the case and prove the reasonable
4 | cost of such hospital care, treatment, and maintenance. Any
5 | verdict that may be rendered in favor of the plaintiff or
6 | counterclaimant shall set forth the amount the jury finds to
7 | be due the lienholder for such hospital care, treatment, and
8 | maintenance and the name of such lienholder. Any judgment
9 | rendered in the case in favor of the plaintiff or
10 | counterclaimant shall also be in favor of the lienholder in
11 | the amount set forth by the jury's verdict.

12 | Section 6. The provisions of this act shall not be
13 | applicable to accidents or injuries within the purview of the
14 | workers' compensation laws of this state.

15 | Section 7. This act shall take effect upon becoming a
16 | law.

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STORAGE NAME: h1412-f.ca
Date: July 14, 1988

COMMITTEE ON COMMUNITY AFFAIRS
HOUSE OF REPRESENTATIVES

FINAL STAFF ANALYSIS - LOCAL LEGISLATION

BILL #: HB 1412

RELATING TO: Alachua County/Liens for Charitable Hospitals

SPONSOR(S): Rep. Martin

EFFECTIVE DATE: Upon becoming a law (July 7, 1988)

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) Judiciary

(2) _____

I. GENERAL DESCRIPTION OF BILL:

A. Statement of Problem/Need:

According to counsel for affected hospitals, sometimes people involved in serious accidents run up tremendous medical bills, eventually recover all or part of their medical expenses from insurance or legal settlements or judgments, but ultimately fail to pay their hospital bills. Insurance companies and courts are legally obligated to the policyholder or plaintiff/defendant, not the hospital. While this may happen relatively infrequently, when it does happen, the losses involved can be extreme.

When these losses are added to the nonrecoverable costs of providing hospital care to a relatively high percentage of indigent patients, as typically occurs with most public and charitable institutions and specifically occurs with those charitable hospitals in Alachua County, the financial impact on the hospital can be significant.

The charitable hospitals of Alachua County are seeking a legal mechanism which will enable them to recover their expenses in these cases, or at least the same proportion of these expenses as were recovered by the patient.

B. Summary of Bill:

HB 1412 provides statutory liens in favor of any nonprofit corporation operating a charitable hospital in Alachua County, to cover all reasonable charges due for hospital care, upon any cause of action, suit, claim, counterclaim, or demand, and upon any judgment, settlement, or settlement agreement, whenever such

cause of action, etc., is related to an illness or injury for which a patient received care, treatment, or maintenance by the hospital. Pursuant thereto:

- Liens must be perfected within 10 days of discharge of the patient. Notice that a lien has been filed must be mailed to the former patient, his attorney (if known), and all persons named in the claim.
- The Clerk of the Circuit Court of Alachua County must endorse on each claim the date and hour of filing, or otherwise record the claim, for which service he may charge a fee.
- No release or satisfaction of any action is valid unless the lienholder accepts it.
- No one may recover damages for expenses incurred on account of hospital care, treatment, and maintenance unless he/she can affirmatively show that the bill for same has been paid. In order to include hospital costs as an item of damages in any action, suit, or counterclaim, the plaintiff or counterclaimant must, prior to trial, notify the lienholder of the action or counterclaim. Verdicts in favor of the plaintiff or counterclaimant must set forth the amount due the lienholder. Judgments in favor of the plaintiff or counterclaimant must also be in favor of the lienholder.
- Accidents or injuries within the purview of the Workers' Compensation Law (ch. 440, F.S.) are specifically excluded.

C. Laws Affected:

1. Special Acts affected (amended, created, or repealed):

This bill creates a new special act which will affect nonprofit charitable hospitals in Alachua County (Alachua General Hospital and Shands Teaching Hospital at the University of Florida).

2. Exception to General Law? Yes [] No [X]

If yes, cite:

D. Amendment(s)

None.

E. Comments:

There could be problems with providing statutory liens by special act to charitable hospitals in general (as they are private entities operating on a nonprofit basis), although this must first be challenged and then must be judicially determined.

Section 11(a) of Article III of the State Constitution sets forth a list of "prohibited special laws," or subjects pertaining to which there may be no special law or general law of local

application. Included among the prohibited special laws, under paragraphs (9) and (12), respectively, are special laws or general laws of local application pertaining to:

1. Creation, enforcement, extension or impairment of liens based on private contracts....
2. Grant of privilege to a private corporation.

In this respect, a question of constitutionality is raised regarding the establishment by special act of a statutory lien which benefits a private hospital.

In 1978, the Legislature passed chapter 78-552, Laws of Florida, entitling the board of directors of the public hospital in Lee County to place a lien upon all causes of action, suits, claims, counterclaims, and demands (and upon judgments, settlements, and settlement agreements rendered or entered into) on account of the illness or injury of any person, where there are outstanding hospital charges for care, treatment, and maintenance of the person.

This act was challenged and was held not to violate the constitutional lien prohibition. Hospital Board of Directors of Lee County v. McCray, 456 So.2d 936 (Fla. 2d DCA 1984). The court in McCray, however, did NOT address the concerns raised in this bill which would provide a lien to a private hospital. Nor did the court in McCray address the question of whether the establishment of a statutory lien for a private hospital would constitute a grant of privilege to a private corporation as prohibited by Section 11(a)(12) of Article III.

The basis of the McCray decision rests on the premise that Lee Memorial is the "only public hospital in Lee County" and that the act is:

...a solution to the problem of payment for medical services furnished to insolvent patients. Chapter 78-552 is a manifestation of the legislature's concern for the public welfare in that the Hospital is assured of compensation and should not be reluctant to treat indigents. We believe the public welfare outweighs private considerations. Id. at 939.

The other case law in this area generally upholds hospital liens; however, the issue of a local act providing a statutory lien to a private hospital or hospital corporation does not appear to have been considered. Cf. State Farm Mutual Automobile Insurance Co. v. Palm Springs General Hospital, Inc. of Hialeah, 232 So.2d 737 (Fla. 1970) upholding a hospital lien act as a general law and not a series of local acts. See also Fernandez v. South Carolina Insurance Co., 408 So.2d 753 (Fla. 3d DCA 1982).

Since none of these cases have directly considered whether the Legislature may, by special act, grant a statutory lien to a private hospital or, more particularly, to a private charitable

not-for-profit hospital, it is unclear whether the prohibitions of Section 11(a)(9) and (12) of Article III would apply to HB 1412.

However, providing such liens to nonprofit charitable hospitals certainly seems somewhat akin to the situation described in McCray, where the court did uphold the right of the Legislature to pass special legislation granting liens to public hospitals because it was seen as "a solution to the problem of payment for medical services furnished to insolvent patients [and] a manifestation of the legislature's concern for the public welfare in that the Hospital is assured of compensation and should not be reluctant to treat indigents."

III. FINAL ACTION:

HB 1412 by Rep. Martin, was referred to the House Committees on Community Affairs and Judiciary on April 18, 1988. On May 26, 1988, the bill was considered by the full committee and was reported favorably without objection. The bill was withdrawn from the Judiciary Committee on May 30, 1988, and was taken up by the House on May 31, 1988, where it was passed by a vote of 119 to 0.

After consideration by the Senate Committee on Rules and Calendar, on June 3, 1988, the bill was taken up by the Senate, where it passed by a vote of 36 to 0.

On July 7, 1988, HB 1412 became a law without the Governor's signature (chapter 88-539, Laws of Florida).

ANALYSIS PREPARED BY: Sharon K. Lowe
Sharon K. Lowe, Legislative Analyst

ANALYSIS REVIEWED BY: Mario L. Taylor
Mario L. Taylor, Staff Director

House Committee on Community Affairs
1988 Local Bill Certification

BILL # 1412 SPONSOR(S) MARTIN, MILLS
RELATING TO Computer Billing (Indicate Area Affected and Subject)
NAME OF DELEGATION Alachua County
CONTACT PERSON Rep. Jim Martin SUNCOM or PHONE NO. () 451-3025

I. House policy requires that, before a local House bill can be heard, three things must occur: (1) The delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a public hearing must be held in the area affected, and (3) after the hearing, the bill must be approved by the delegation.

Does the delegation certify that the purpose of the bill cannot be accomplished locally?

Yes No

Has a public hearing been held?

Yes No Date hearing held: JANUARY 26, 1988

Location: CITY COMMISSION CHAMBERS, GAINESVILLE

Was this bill formally approved by a majority of the delegation members?

Yes No Unit rule Unanimous

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless the bill has been advertised in advance (as provided in s. 11.02, F.S.) or is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional requirement been met?

Notice published: Yes No

Referendum in lieu of publication: Yes No

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional requirement been met?

Yes No Not applicable

IV. Pursuant to s. 11.075, F.S., the Legislature must consider the economic impact that any general or special law will have upon the public and upon agencies of government assigned to implement/enforce such legislation. House policy requires that economic impact statements for local bills be prepared at the local level.

"Economic impact" is defined by law (under s. 120.54, F.S.) to include any cost of implementation and enforcement (including necessary paperwork) and any economic benefit to be gained, as well as any impact upon "competition and the open market for employment, if applicable." By law, economic impact statements must also include "the data and method used in making ... estimates."

Will there be any costs or economic benefits associated with this bill, or will the bill have an impact on employment as described above?

Yes, see attached No

If yes, please attach a narrative statement describing the anticipated economic impact of the proposed bill, or, if preferred, simply fill in the Economic Impact Statement form provided by the House Committee on Community Affairs.

[Signature] 4/27/88
(Delegation Chair's Signature) (Date)

