

H.B. 135

LIEN REVISIONS

HOUSE COMMITTEE AMENDMENTS

AMENDMENT 1

FEBRUARY 27, 2009 10:04 AM

Representative **Brian S. King** proposes the following amendments:

1. *Page 3, Lines 70 through 79:*

70 (2) Except as provided in Subsection (5)(a), ~~{If}~~ if a patient is injured in an accident that
is not covered by workers' compensation, a
71 hospital may file a lien in accordance with Subsection 31A-26-301.5(2)(b):
72 (a) (i) upon damages recovered by the patient from a judgment or settlement; and
73 (ii) to recover usual, reasonable, and customary hospital charges not paid in accordance with
Subsection 31A-22-307 arising out of the
74 accident for treatment, care, and maintenance of the patient up to the date of ~~{payment of the~~
75 damages} judgment or settlement ; or
76 (b) (i) upon damages arising out of the accident recovered by the patient's family or
77 personal representative from a judgment or settlement; and
78 (ii) to recover usual, reasonable, and customary hospital charges not paid in accordance with
Subsection 31A-22-307 for treatment, care,
79 and maintenance of the patient up to the date of ~~{payment of the damages}~~ judgment or settlement .

2. *Page 3, Line 84 through Page 4, Line 96:*

84 patient for the balance of the charges.
85 ~~{(5) Notwithstanding Subsection (2), a hospital that is a Medicare provider may not file~~
86 a lien if at the time that the hospital submits a patient's claim with Medicare on behalf of the
87 patient:
88 ~~—— (a) the patient is covered by Medicare; and~~
89 ~~—— (b) the hospital has not established the probable existence of third-party liability and~~
90 payment through a judgment or settlement;
91 ~~—— (6) Notwithstanding Subsection (2), a hospital that is a Medicaid provider may not file~~
92 a lien if at the time that the hospital submits a patient's claim with Medicaid on behalf of the
93 patient:
94 ~~—— (a) the patient is covered by Medicaid; and~~
95 ~~—— (b) the hospital has not established the probable existence of third-party liability and~~
96 payment through a judgment or settlement.} (5)(a) Subject to Subsection (5)(b), a hospital shall
timely bill Medicare or Medicaid before asserting a hospital lien if the hospital:
(i) is a Medicare or Medicaid provider; and
(ii) provides services to a Medicare or Medicaid eligible individual.

(b) A hospital is not subject to the provisions of Subsection (5)(a) if the hospital, within a Medicare or Medicaid billing time frame, is able to establish:

(i) the probable existence of third party liability; and

(ii) prospective or actual payment from a third party that constitutes whole or partial payment for the hospital's usual, reasonable, and customary charges.

(6) A hospital may assert a lien in an amount of up to 90% of the difference between the hospital's usual, reasonable, and customary charges and the amount previously paid by health insurance, Medicare, or Medicaid if:

(i) a hospital has billed and accepted payment from a payer described in Subsection (4) or (5); and

(ii) the patient obtains a recovery from a third party that constitutes whole or partial payment of medical expenses caused by the third party.