

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 5 be amended to read as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 32-33-4-1, AS AMENDED BY P.L.160-2012,
- 3 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2013]: Sec. 1. **Subject to section 3(c) and 3(d) of this**
- 5 **chapter**, a person, a firm, a partnership, an association, a limited
- 6 liability company, or a corporation maintaining a hospital in Indiana or
- 7 a hospital owned, maintained, or operated by the state or a political
- 8 subdivision of the state is entitled to hold a lien for the reasonable
- 9 value of its services or expenses on any judgment for personal injuries
- 10 rendered in favor of any person, except:
- 11 (1) a person covered by the provisions of ~~IC 22-3-2 through~~
- 12 ~~IC 22-3-6; IC 22-3,~~ **the state worker's compensation laws;**
- 13 (2) a person covered by the **provisions of 5 U.S.C. 8101 et seq.,**
- 14 **federal worker's compensation laws;**
- 15 (3) a person covered by the **provisions of 45 U.S.C. 51 et seq.,**
- 16 **the federal employers liability act; or**
- 17 (4) an eligible person (as defined in IC 34-13-8-1) with respect to
- 18 a distribution paid from the supplemental state fair relief fund for
- 19 an occurrence (as defined in IC 34-13-8-2);
- 20 (5) **a person covered by the provisions of 42 U.S.C. 1395 et**
- 21 **seq., the federal Medicare program; or**
- 22 (6) **a person covered by the provisions of 42 U.S.C. 1396 et**
- 23 **seq., the federal Medicaid program, administered by the state**
- 24 **under IC 12-15;**

1 who is admitted to the hospital and receives treatment, care, and  
 2 maintenance on account of personal injuries received as a result of the  
 3 negligence of any person or corporation. In order to claim the lien, the  
 4 hospital must ~~at the time or after the~~ **satisfy the conditions for**  
 5 **perfecting the lien as set forth in section 4 of this chapter and, not**  
 6 **later than the date on which the** judgment is rendered, enter, in  
 7 writing, upon the judgment docket where the judgment is recorded, the  
 8 hospital's intention to hold a lien upon the judgment, together with the  
 9 amount claimed.

10 SECTION 2. IC 32-33-4-2 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. The lien provided for  
 12 in section 1 of this chapter is junior and inferior to:

13 (1) all claims for attorney's fees, court costs, and all other  
 14 expenses contracted for or incurred in the recovery of claims or  
 15 damages for personal injuries as described in this chapter; **and**

16 (2) **all liens, subrogation claims, or reimbursement claims**  
 17 **arising under:**

18 (A) **an employee welfare benefit plan governed under 29**  
 19 **U.S.C. 1001 et seq., the federal Employee Retirement**  
 20 **Income Security Act;**

21 (B) **a subrogation claim or lien subject to IC 34-53-1-2 or**  
 22 **IC 34-51-2-19;**

23 (C) **42 U.S.C. 1395y(b)(2), Medicare liens under Medicare**  
 24 **secondary payer provisions; or**

25 (D) **IC 12-15-8, Medicaid liens.**

26 SECTION 3. IC 32-33-4-3, AS AMENDED BY P.L.160-2012,  
 27 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2013]: Sec. 3. (a) A person, a firm, a partnership, an  
 29 association, a limited liability company, or a corporation maintaining  
 30 a hospital in Indiana or a hospital owned, maintained, or operated by  
 31 the state or a political subdivision has a lien for all reasonable and  
 32 necessary charges for hospital care, treatment, and maintenance of a  
 33 patient (including emergency ambulance services provided by the  
 34 hospital) upon any cause of action, suit, or claim accruing to the  
 35 patient, or in the case of the patient's death, the patient's legal  
 36 representative, because of the illness or injuries that:

37 (1) gave rise to the cause of action, suit, or claim; and

38 (2) necessitated the hospital care, treatment, and maintenance.

39 (b) The lien provided for in subsection (a):

40 (1) except as provided in subsection (c), applies to any amount  
 41 obtained or recovered by the patient by settlement or compromise  
 42 rendered or entered into by the patient or by the patient's legal  
 43 representative;

44 (2) is subject and subordinate to:

45 (A) any attorney's lien upon the claim or cause of action; **and**

46 (B) **all liens, subrogation claims, or reimbursement claims**

- 1                    **arising under:**
- 2                    **(i) an employee welfare benefit plan governed under 29**
- 3                    **U.S.C. 1001 et seq., the federal Employee Retirement**
- 4                    **Income Security Act;**
- 5                    **(ii) a subrogation claim or lien subject to IC 34-53-1-2 or**
- 6                    **IC 34-51-2-19;**
- 7                    **(iii) 42 U.S.C. 1395y(b)(2), Medicare liens under**
- 8                    **Medicare secondary payer provisions; or**
- 9                    **(iv) IC 12-15-8, Medicaid liens;**
- 10                  **(3) is not applicable to accidents or injuries within the purview of:**
- 11                  **a person covered by:**
- 12                  **(A) the provisions of IC 22-3, the state worker's**
- 13                  **compensation laws;**
- 14                  **(B) the provisions of 5 U.S.C. 8101 et seq., the federal**
- 15                  **worker's compensation laws;**
- 16                  **(C) 45 U.S.C. 51 et seq., or the federal employers liability**
- 17                  **act;**
- 18                  **(D) IC 34-13-8 concerning a distribution paid from the**
- 19                  **supplemental state fair relief fund to an eligible person (as**
- 20                  **defined in IC 34-13-8-1) for an occurrence (as defined in**
- 21                  **IC 34-13-8-2);**
- 22                  **(E) the provisions of 42 U.S.C. 1395 et seq., the federal**
- 23                  **Medicare program; or**
- 24                  **(F) the provisions of 42 U.S.C. 1396 et seq., the federal**
- 25                  **Medicaid program, administered by the state under**
- 26                  **IC 12-15; and**
- 27                  **(4) is not assignable. and**
- 28                  **(5) must first be reduced by the amount of any medical insurance**
- 29                  **proceeds paid to the hospital on behalf of the patient after the**
- 30                  **hospital has made all reasonable efforts to pursue the insurance**
- 31                  **claims in cooperation with the patient.**
- 32                  **(c) If a settlement or compromise that is subject to subsection (b)(1)**
- 33                  **is for an amount that would permit the patient to receive less than**
- 34                  **twenty percent (20%) of the full amount of the settlement or**
- 35                  **compromise if all the liens created under this chapter were paid in full;**
- 36                  **the liens must be reduced on a pro rata basis to the extent that will**
- 37                  **permit the patient to receive twenty percent (20%) of the full amount.**
- 38                  **(c) A lien provided for in this chapter:**
- 39                  **(1) may not exceed a patient's financial obligation to a**
- 40                  **hospital as provided under the terms of any public or private**
- 41                  **benefits to which the patient is a beneficiary or otherwise**
- 42                  **entitled, including:**
- 43                  **(A) medical insurance;**
- 44                  **(B) health plans;**
- 45                  **(C) Medicare;**
- 46                  **(D) Medicaid; and**

- 1           **(E) government reimbursement rates;**
- 2           **(2) must reflect reductions to the original charges for all**
- 3           **payments, contractual adjustments, write-offs, and any other**
- 4           **benefit in favor of the patient after the hospital has made all**
- 5           **reasonable efforts to pursue the benefits in cooperation with**
- 6           **the patient;**
- 7           **(3) does not apply to a judgment, cause of action, suit, or**
- 8           **claim accruing to the patient under:**
- 9           **(A) a policy of disability insurance; or**
- 10           **(B) the patient's automobile insurance that provides for:**
- 11           **(i) medical payments;**
- 12           **(ii) uninsured motorist coverage; or**
- 13           **(iii) underinsured motorist coverage; and**
- 14           **(4) must be reduced on a pro rata basis to the extent that will**
- 15           **allow the patient to receive at least twenty percent (20%) of**
- 16           **the full amount of the judgment, settlement, or compromise**
- 17           **if the judgment, settlement, or compromise that is subject to**
- 18           **a lien under this chapter is for an amount that would allow**
- 19           **the patient to receive less than twenty percent (20%) of the**
- 20           **full amount of the judgment, settlement, or compromise if all**
- 21           **obligations of the patient are satisfied in full.**
- 22           **(d) A hospital that claims a lien under this chapter may not seek**
- 23           **additional payment from a patient or the patient's representative**
- 24           **to satisfy any part of the lien or charges not otherwise satisfied."**
- 25           Delete pages 2 through 3.
- 26           Page 4, delete lines 1 through 29.
- 27           Page 5, line 36, after "respondents." insert **"When the motion is**
- 28           **filed, the hospital has the burden of proving the reasonableness of**
- 29           **the hospital's charges by producing evidence of the actual cost of**
- 30           **the services provided to the patient. For purposes of this**
- 31           **subsection, charges are not considered reasonable if the charges**
- 32           **equal an amount that exceeds sixty-five percent (65%) of the**
- 33           **amount charged by the hospital according to the hospital's charge**
- 34           **description master listing of the amount charged by the hospital**
- 35           **for each service, item, and procedure:**
- 36           **(1) that is provided by the hospital; and**
- 37           **(2) for which a separate charge exists."**
- 38           Page 6, line 13, delete "twenty-five" and insert **"two hundred fifty"**.
- 39           Page 6, line 14, delete "\$25" and insert **"\$250"**.
- 40           Page 6, between lines 19 and 20, begin a new paragraph and insert:
- 41           "SECTION 6. IC 32-33-4-8 IS AMENDED TO READ AS
- 42           FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. **(a)** This chapter does
- 43           not give any hospital a right:
- 44           (1) of action to determine liability; or
- 45           (2) to approve a compromise or settlement;
- 46           for injuries sustained by any person covered by this chapter.

1           **(b) A hospital may not bring an action to collect charges from**  
2 **a patient covered by this chapter that the hospital claims are owed**  
3 **by the patient until:**  
4           **(1) the hospital has perfected the hospital's lien; and**  
5           **(2) the cause of action, suit, or claim accruing to the patient**  
6 **has been resolved by compromise, settlement, or judgment."**  
7           Renumber all SECTIONS consecutively.  
            (Reference is to ESB 5 as printed April 5, 2013.)

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Representative McMillin