

1 IN THE SENATE

BY SENATOR MCNEALY

2

SENATE BILL NO. 25

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIRST LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act to provide liens for hospitals,  
7 nurses and physicians for services rendered  
8 in personal injury cases; notice, content  
9 and filing; record, effect of taking note,  
10 effect of settlement of damages, and  
11 enforcement of lien; and setting an  
12 effective date."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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Section 1. LIEN ESTABLISHED. Every operator of a hospital  
15 within the State and every duly licensed nurse, practitioner,  
16 physician and surgeon within the State who has rendered service  
17 to any person who has received a traumatic injury shall have a  
18 lien upon any claim right of action and/or money to which such  
19 injured person is entitled against any tort feisor and/or insurer  
20 of such tort feisor for the value of such medical and related  
21 service, together with costs and such reasonable attorney's  
22 fees as the court may allow, incurred in enforcing such lien;  
23 provided, that nothing in this Act shall apply to any claim,  
24 right or action or money accruing under the Workmen's Compensation  
25 Act of the State of Alaska; and provided, further, that all such  
26 liens for such services rendered to any one person as a result  
27 of any one accident shall not exceed twenty-five percentum of  
28 the amount of an award, verdict, report, decision, judgment,  
29 decree or settlement unless the amount allowed or designated

1 for such services rendered in such award, verdict, report,  
2 decision is in excess of twenty-five percentum of the total; and  
3 if not, then such liens shall be on a pro rata basis within the  
4 twenty-five percentum maximum permitted under this section.

5 Sec. 2. NOTICE OF LIEN: CONTENTS: FILING. No person  
6 shall be entitled to the lien provided by this Act unless he  
7 shall, within twenty days after the date of such injury, or,  
8 if settlement has not been effected and payment made to such  
9 injured person, then at any time before such settlement and  
10 payment, file for record with the recorder of the precinct,  
11 district or borough, in which such service was performed, a  
12 notice of claim stating the name and address of the person  
13 claiming the lien and whether the claimant claims as practitioner,  
14 nurse, physician or hospital, the name and address of the injured  
15 person and his domicile if other than his actual address, the  
16 time and the place of the alleged fault or negligence of the  
17 tort feisor, the nature of the injury, the name and address of  
18 the tort feisor, if the same or any thereof are known, which  
19 claim, requesting reasonable value of medical and related services  
20 rendered, shall be subscribed by the claimant and verified before  
21 a person authorized to administer oaths.

22 Sec. 3. RECORD OF CLAIMS. The recorder shall record the  
23 claims mentioned in this Act in a book to be kept by him for that  
24 purpose, which claims shall be indexed as deeds and other  
25 conveyances are required by law to be indexed.

26 Sec. 4. TAKING NOTE: EFFECT ON LIEN. The taking of a  
27 promissory note or other evidence of indebtedness for any medical  
28 or related services performed shall not discharge the lien  
29 therefor provided in this Act unless expressly received as payment

1 for such services and as so specified therein.

2       Sec. 5. SETTLEMENT OF DAMAGES: EFFECT ON LIEN. No  
3 settlement made by and between the injured person and tort feisor  
4 and/or insurer shall discharge the lien against any money due  
5 or owing by such tort feisor or insurer to the injured person  
6 or relieve the tort feisor and/or insurer from liability by  
7 reason of such lien unless such settlement expressly provides  
8 for the payment and discharge of such lien or unless a written  
9 release or waiver of any such claim of lien, signed by the  
10 claimant, be filed in the court where such action has been  
11 commenced on such claim, or in case no action has been commenced  
12 against the tort feisor and/or insurer, then such written release  
13 or waiver shall be delivered to the tort feisor and/or insurer.

14       Sec. 6. ENFORCEMENT OF LIEN: PAYMENT AS EVIDENCE. Such  
15 liens may be foreclosed or enforced by a suit of law brought by  
16 the claimant, his representative or assignee within one year  
17 after filing such lien against the said tort feisor and/or  
18 insurer. In the event that such tort feisor and/or insurer shall  
19 have made payment or settlement on account of such injury, the  
20 fact of such payment shall only for the purpose of such suit be  
21 prima facie evidence of the negligence of the tort feisor and  
22 of liability to compensate for such negligence.

23       Sec. 7. EFFECTIVE DATE: This Act shall take effect  
24 immediately upon its passage and approval or upon its becoming law  
25 without such approval.

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