PROPOSED

1 ORDINANCE NO. 2020-2 ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, 3 PERTAINING HOSPITAL LIENS; TO AMENDING SECTIONS 16-13, 16-16, AND 16-18 OF THE BROWARD 4 COUNTY CODE OF ORDINANCES ("CODE"); CLARIFYING THAT THE APPLICABLE HOSPITAL **LIENS** 5 IMPAIRMENT OF LIEN CLAIMS DO NOT APPLY AGAINST LOCAL GOVERNMENT ENTITIES; AND PROVIDING FOR 6 SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE. 7 (Sponsored by the Board of County Commissioners) 8 9 10 WHEREAS, the Broward County Board of County Commissioners ("Board") has determined that hospitals provide valuable services to ill or injured persons, and it is 11 12 important to provide mechanisms that support payment of the costs of treatment provided 13 by hospitals; 14 WHEREAS, Article II of Chapter 16 of the Broward County Code of Ordinances 15 ("Code") imposes a lien in favor of hospitals for all reasonable charges incurred by the 16 hospital upon any claim, judgment, and settlement relating to the illness or injuries that 17 gave rise to the claim at issue; 18 WHEREAS, under the Florida Constitution and well-established law in the State of 19 Florida, sovereign immunity applies to counties and municipalities absent waiver by the 20 Florida Legislature or other express waiver; 21 WHEREAS, the Board has determined that it is appropriate to amend 22 Sections 16-13, 16-16, and 16-18 of the Code to clarify that the hospital lien is not a 23 waiver of, and has no effect upon, the sovereign immunity of counties and municipalities, 24 Words in struck-through type are deletions from existing text. Words in Coding:

underscored type are additions.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 16-13 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 16-13. Established.

Except as provided in Section 16-18. Eevery individual, partnership, firm, association, corporation, institution, and governmental unit, and every combination of any of the foregoing, operating a hospital shall be entitled to a lien for all reasonable charges for hospital care, treatment, and maintenance of ill or injured persons upon any and all causes of action, suits, claims, counterclaims, and demands accruing to the persons to whom such care, treatment, or maintenance are furnished, or accruing to the legal representatives of such persons, and upon all judgments, settlements, and settlement agreements rendered or entered into by virtue thereof, on account of illness or injuries giving rise to such causes of action, suits, claims, counterclaims, demands, judgment, settlement, or settlement agreement and which necessitate or shall have necessitated such hospital care, treatment, and maintenance.

Section 2. Section 16-16 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 16-16. Release of lien; impairment of lien.

(a) No release or satisfaction of any action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement, or of any of them, shall be valid or

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effectual as against such lien unless such lienholder shall join therein or execute a release of such lien.

Except as provided in Section 16-18, Aany acceptance of a release or (b) satisfaction of any such cause of action, suit, claim, counterclaim, demand, or judgment and any settlement of any of the foregoing in the absence of a release or satisfaction of the lien referred to in this article shall prima facie constitute an impairment of such lien, and the lienholder shall be entitled to an action at law for damages on account of such impairment, and in such action may recover from the one accepting such release or satisfaction or making such settlement the reasonable cost of such hospital care, treatment, and maintenance. Satisfaction of any judgment rendered in favor of the lienholder in any such action shall operate as a satisfaction of the lien. Any action by the lienholder shall be brought in the court having jurisdiction of the amount of the lienholder's claim and may be brought and maintained in the county wherein the lienholder's has his, its or their residence of or place of business is located. If the lienholder shall prevail in such action, the lienholder shall be entitled to recover from the defendant, in addition to costs otherwise allowed by law, all reasonable attorney's fees and expenses incident to the matter.

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Section 3. Section 16-18 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 16-18. Provisions not applicable to injuries coming under workmen's workers'
compensation or liens against government entities; no waiver of sovereign
immunity.

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The provisions of this article shall not be applicable to accidents or injuries within the purview of the workmen's workers' compensation act of this state. A lien provided for under this chapter is not enforceable, nor shall an action exist under this chapter for impairment of any such lien, against a local government entity, including municipalities, counties, or special districts. Nothing in this chapter constitutes a waiver of sovereign immunity by any entity.

Section 4. Severability.

If any portion of this Ordinance is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

Section 5. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary in order to accomplish such intention.

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1	Section 6. <u>Effective Date</u> .
2	This Ordinance is effective as of the date provided by law.
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4	ENACTED
5	FILED WITH THE DEPARTMENT OF STATE
6	EFFECTIVE
7	PROPOSED
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10	Approved as to form and legal sufficiency: Andrew J. Meyers, County Attorney
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12	By <u>/s/ René D. Harrod 02/24/2020</u> René D. Harrod (date)
13	René D. Harrod (date) Deputy County Attorney
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