

PROPOSED

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO HOSPITAL LIENS; AMENDING SECTIONS 16-13, 16-16, AND 16-18 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); CLARIFYING THAT THE APPLICABLE HOSPITAL LIENS AND IMPAIRMENT OF LIEN CLAIMS DO NOT APPLY AGAINST LOCAL GOVERNMENT ENTITIES; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, the Broward County Board of County Commissioners ("Board") has determined that hospitals provide valuable services to ill or injured persons, and it is important to provide mechanisms that support payment of the costs of treatment provided by hospitals;

WHEREAS, Article II of Chapter 16 of the Broward County Code of Ordinances ("Code") imposes a lien in favor of hospitals for all reasonable charges incurred by the hospital upon any claim, judgment, and settlement relating to the illness or injuries that gave rise to the claim at issue;

WHEREAS, under the Florida Constitution and well-established law in the State of Florida, sovereign immunity applies to counties and municipalities absent waiver by the Florida Legislature or other express waiver;

WHEREAS, the Board has determined that it is appropriate to amend Sections 16-13, 16-16, and 16-18 of the Code to clarify that the hospital lien is not a waiver of, and has no effect upon, the sovereign immunity of counties and municipalities,

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

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

6 **Sec. 16-13. Established.**

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

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

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

22 (a) No release or satisfaction of any action, suit, claim, counterclaim, demand,
23 judgment, settlement, or settlement agreement, or of any of them, shall be valid or
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underscored type are additions.

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

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

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

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

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

7
8 Section 4. Severability.

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

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

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

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Section 6. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

PROPOSED

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ René D. Harrod 02/24/2020
René D. Harrod (date)
Deputy County Attorney

RDH/tb
Hospital Liens Ord.doc
02/24/2020
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