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[Second Reprint]

ASSEMBLY, No. 2038

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED FEBRUARY 7, 2008

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

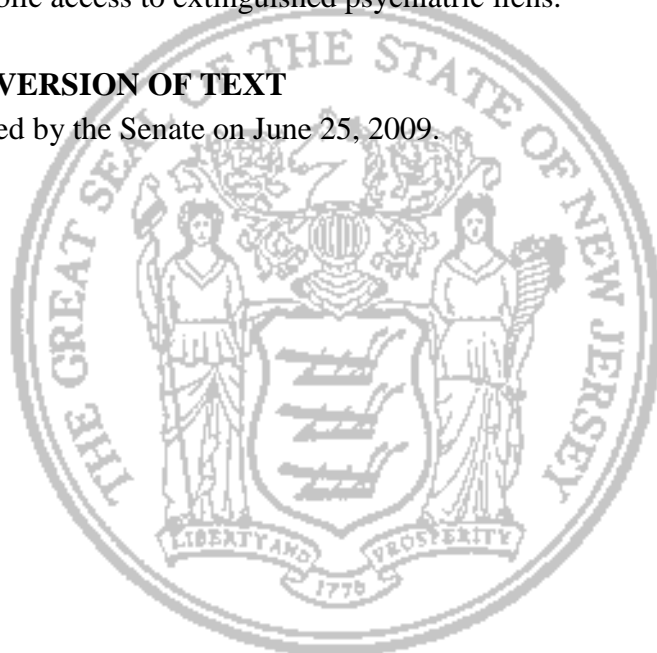
Assemblywoman Rodriguez, Senators T.Kean and Vitale

SYNOPSIS

Denies public access to extinguished psychiatric liens.

CURRENT VERSION OF TEXT

As amended by the Senate on June 25, 2009.



(Sponsorship Updated As Of: 6/26/2009)

1 AN ACT concerning public access to certain liens and
2 supplementing chapter 4 of Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. ¹**[**Except as provided in subsection b. of this section and
8 notwithstanding the provisions of P.L.1963, c.73 (C. 47:1A-1 et
9 seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) or any other provision
10 of law to the contrary, all liens filed against a person treated at a
11 psychiatric facility as defined in section 2 of P.L.1987, c.116
12 (C.30:4-27.2) and any index of such liens shall be removed from
13 public access, and shall not be made available to a member of the
14 public for inspection, review, or copying or included in any index
15 that is available to the public on or after the effective date of this
16 act.

17 b. A member of the public may gain access to an individual
18 lien by applying to the Law Division of the Superior Court of the
19 county in which the lien was filed. The application shall be granted
20 if, in the discretion of the court, there is a demonstrated, necessary,
21 and reasonable basis and need for the access. The access and use of
22 the information about the lien shall be on such terms as an order of
23 the court shall provide.]

24 Except as provided in subsection f. of this section and
25 notwithstanding the provisions of P.L.1963, c.73 (C. 47:1A-1 et
26 seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) or any other provision
27 of law to the contrary, all liens filed against a person treated at a
28 psychiatric facility as defined in section 2 of P.L.1987, c.116
29 (C.30:4-27.2) and any index of such liens shall not be made
30 available to a member of the public for inspection, review, or
31 copying or included in any index that is available to the public on or
32 after the effective date of this act, as provided in this section.

33 b. ²**[**The Commissioner of Human Services, in the case of any
34 State-operated psychiatric facility as defined in R.S.30:1-7, or the
35 chief executive officer of any county-operated psychiatric facility,
36 who caused a lien to be recorded against a person treated at the
37 facility prior to the effective date of section 8 of P.L.2005, c.55
38 (C.30:4-80.6a) shall identify, to the extent practicable, in
39 cooperation with the clerk of the county, register of deeds and
40 mortgages, the Clerk of the Superior Court, or other custodian of
41 such record, those liens filed against a person treated at a
42 psychiatric facility that were recorded and that are subject to the
43 public access restrictions of subsection a. of this section.] For any

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted March 10, 2009.

²Senate floor amendments adopted June 25, 2009.

1 lien identified as a "hospital lien" on the records of the Clerk of the
2 Superior Court where the issuer of the lien is:

3 (1) a State-operated psychiatric facility listed in R.S.30:1-7 or
4 any variation of such a facility name as identified by the
5 Commissioner of Human Services; or

6 (2) a county-operated psychiatric facility as identified by the
7 chief executive officer of such a facility,

8 the Clerk of the Superior Court shall mark the lien as extinguished
9 in accordance with section 8 of P.L.2005, c.55 (C.30:4-80.6a) and
10 remove any record of the lien from public access so that it is not
11 available to a member of the public for inspection, review, or
12 copying or included in any index that is available to the public on or
13 after the effective date of this act.

14 For the purposes of this subsection, "lien" means a lien index,
15 abstract or other record maintained in electronic or digital format.²

16 c. ²Upon notification by the commissioner or chief executive
17 officer pursuant to subsection b. of this section to the clerk of the
18 county, register of deeds and mortgages, the Clerk of the Superior
19 Court, or other custodian of such record, as appropriate, the lien
20 shall be marked as extinguished in accordance with section 8 of
21 P.L.2005, c.55 (30:4-80.6a) and the record of any such lien or index
22 shall be removed from public access by the clerk of the county,
23 register of deeds and mortgages, the Clerk of the Superior Court, or
24 other custodian of such record, as appropriate, and shall not be
25 made available to a member of the public for inspection, review, or
26 copying or included in any index that is available to the public on or
27 after the effective date of this act.】 For any lien related to the cost

28 of patient care identified as an "institutional lien" on the records of
29 the clerk of the county, register of deeds and mortgages, or any
30 other public custodian of such record where the issuer of the lien is:

31 (1) a State-operated psychiatric facility listed in R.S.30:1-7 or
32 any variation of such a facility name as identified by the
33 commissioner; or

34 (2) a county-operated psychiatric facility as identified by the
35 chief executive officer of such a facility,

36 the clerk of the county, register of deeds and mortgages, or any
37 other public custodian of such record shall mark the lien as
38 extinguished in accordance with section 8 of P.L.2005, c.55
39 (C.30:4-80.6a) and remove any record of the lien from public access
40 so that it is not available to a member of the public for inspection,
41 review, or copying or included in any index that is available to the
42 public on or after the effective date of this act.²

43 d. Upon the filing of the discharge certificate pursuant to
44 section 6 of P.L.1938, c.239 (C.30:4-80.6), with the clerk of the
45 county, register of deeds and mortgages, the Clerk of the Superior
46 Court, or other custodian of such record, the record of any such lien
47 or index shall be removed from public access by the clerk of the
48 county, register of deeds and mortgages, the Clerk of the Superior

1 Court, or other custodian of such record, as appropriate, and shall
2 not be made available to a member of the public for inspection,
3 review, or copying or included in any index that is available to the
4 public on or after the effective date of this act.

5 e. Any commercial public records company that has obtained a
6 record of a lien filed against a person treated at a psychiatric facility
7 from the clerk of the county, register of deeds and mortgages, the
8 Clerk of the Superior Court, or other custodian of such record shall
9 remove the record from its database within a reasonable amount of
10 time from when the clerk of the county, register of deeds and
11 mortgages, the Clerk of the Superior Court or other custodian
12 removes the record of such lien from public access.

13 f. A member of the public may gain access to ²[an
14 individual]² lien ²removed from public access pursuant to this
15 section² by applying to the Superior Court of the county in which
16 the lien was filed. The application shall be granted if, in the
17 discretion of the court, there is a demonstrated, necessary, and
18 reasonable basis and need for the access. The access and use of the
19 information about the lien shall be on such terms as an order of the
20 court shall provide.

21 g. No person shall have a private cause of action against a
22 public entity or public employee for failing to carry out the
23 provisions of this act and no public entity or public employee shall
24 be liable for any claim arising from the failure to fulfill the
25 provisions of this act, provided that a good faith effort was made by
26 the public entity or public employee to carry out the provisions of
27 this act.¹

28 ²h. The commissioner, in the case of a State-operated
29 psychiatric facility listed in R.S.30:1-7, the chief executive officer
30 of a county-operated psychiatric facility, the clerk of the county,
31 register of deeds and mortgages, the Clerk of the Superior Court, or
32 any other public custodian of a record of a lien filed against a
33 person treated at a State or county-operated psychiatric facility prior
34 to the effective date of section 8 of P.L.2005, c.55 (C.30:4-80.6a),
35 shall jointly cooperate to ensure that, to the extent practicable, such
36 records of liens are removed from public access.²

37
38 2. This act shall take effect on the first day of the ¹[fourth]
39 twelfth¹ month following the date of enactment.

ASSEMBLY, No. 2038

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 7, 2008

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

Assemblywoman Rodriguez

SYNOPSIS

Denies public access to extinguished psychiatric liens.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/9/2008)

1 AN ACT concerning public access to certain liens and
2 supplementing chapter 4 of Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Except as provided in subsection b. of this section and
8 notwithstanding the provisions of P.L.1963, c.73 (C. 47:1A-1 et
9 seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) or any other provision
10 of law to the contrary, all liens filed against a person treated at a
11 psychiatric facility as defined in section 2 of P.L.1987, c.116
12 (C.30:4-27.2) and any index of such liens shall be removed from
13 public access, and shall not be made available to a member of the
14 public for inspection, review, or copying or included in any index
15 that is available to the public on or after the effective date of this
16 act.

17 b. A member of the public may gain access to an individual lien
18 by applying to the Law Division of the Superior Court of the county
19 in which the lien was filed. The application shall be granted if, in
20 the discretion of the court, there is a demonstrated, necessary, and
21 reasonable basis and need for the access. The access and use of the
22 information about the lien shall be on such terms as an order of the
23 court shall provide.

24

25 2. This act shall take effect on the first day of the fourth month
26 following the date of enactment.

27

28

29

STATEMENT

30

31 This bill denies public access to records of a lien filed against a
32 person treated at a psychiatric facility for care and treatment at the
33 facility, but also establishes a mechanism to gain access to an
34 individual lien by applying to the Law Division of the Superior
35 Court. Under section 8 of P.L.2005, c.55 (N.J.S.A. 30:4-80.6a),
36 psychiatric liens were extinguished and have no legal effect, and no
37 new liens are filed against a person treated at a psychiatric facility.
38 This bill would deny public access to the very personal and
39 confidential information about the existence of these liens.

40 Specifically, the bill provides that, notwithstanding the
41 provisions of the Open Public Records Act or any other provision of
42 law to the contrary, all liens filed against a person treated at a
43 psychiatric facility and any index of such liens shall be removed
44 from public access. The liens shall not be made available to a
45 member of the public for inspection, review, or copying or included
46 in any index that is available to the public on or after the effective
47 date of the bill.

1 However, a member of the public may gain access to an
2 individual lien by applying to the Law Division of the Superior
3 Court of the county in which the lien was filed. The application
4 would be granted if, in the discretion of the court, there is a
5 demonstrated, necessary, and reasonable basis and need for the
6 access. The access and use of the information about the lien would
7 be on such terms as an order of the court provides.

8 The bill has a delayed effective date of the first day of the fourth
9 month following the date of enactment to provide county clerks or
10 registers of deeds and mortgages, as applicable, with a reasonable
11 period of time to segregate the psychiatric lien records from the lien
12 records that are otherwise available for public inspection.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2038

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Assembly Human Services Committee reports favorably Assembly Bill No. 2038.

This bill denies public access to records of a lien filed against a person treated at a psychiatric facility for care and treatment at the facility, but also establishes a mechanism to gain access to an individual lien by applying to the Law Division of the Superior Court. Under section 8 of P.L.2005, c.55 (N.J.S.A.30:4-80.6a), psychiatric liens were extinguished and have no legal effect, and no new liens are filed against a person treated at a psychiatric facility. This bill would deny public access to the very personal and confidential information about the existence of these liens.

Specifically, the bill provides that, notwithstanding the provisions of the Open Public Records Act or any other provision of law to the contrary, all liens filed against a person treated at a psychiatric facility and any index of such liens shall be removed from public access. The liens shall not be made available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of the bill.

However, a member of the public may gain access to an individual lien by applying to the Law Division of the Superior Court of the county in which the lien was filed. The application would be granted if, in the discretion of the court, there is a demonstrated, necessary, and reasonable basis and need for the access. The access and use of the information about the lien would be on such terms as an order of the court provides.

The bill has a delayed effective date of the first day of the fourth month following the date of enactment to provide county clerks or registers of deeds and mortgages, as applicable, with a reasonable period of time to segregate the psychiatric lien records from the lien records that are otherwise available for public inspection.

The bill is identical to Senate Bill No. 1808 (T.Kean/Vitale), which is pending in the Senate Health, Human Services and Senior Citizens Committee.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2038

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Assembly Bill No. 2038.

As amended, this bill denies public access to records of liens filed against individuals treated at psychiatric facilities, while establishing a mechanism to gain access to an individual lien under limited circumstances. N.J.S.A.30:4-80.6a, enacted in 2005, provided for extinguishing and giving no legal effect to existing psychiatric liens, and prohibited new liens from being filed. However, those existing liens still exist in public records.

Specifically, the bill provides that:

- The Commissioner of Human Services, in the case of any State-operated psychiatric facility, or the chief executive officer of any county-operated psychiatric facility, who caused a lien to be recorded against a person treated at the facility prior to the effective date of N.J.S.A.30:4-80.6a, shall identify, to the extent practicable, and in cooperation with the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian, liens filed against a person treated at a psychiatric facility that were recorded and are subject to the public access restrictions of this bill.
- Upon notification by the commissioner or chief executive officer to the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record, the lien shall be marked as extinguished, and the record of the lien and index shall be removed from public access by the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record. These records shall not be available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of the bill.
- Upon filing of a discharge certificate pursuant to N.J.S.A.30:4-80.6, which enables individuals treated at a psychiatric facility to have such liens discharged, the record of the lien and index shall be

removed from public access by the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian. It shall not be available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of this bill.

- Any commercial public records company that has obtained a record of a lien filed against an individual treated at a psychiatric facility from the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record, shall remove the record from its database within a reasonable time after the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court or other custodian has removed the record of such lien from public access.
- A member of the public may gain access to an individual lien by applying to the Superior Court of the county in which the lien was filed. The application shall be granted if, in the discretion of the court, there is a demonstrated, necessary, and reasonable basis and need for the access. The access and use of the information about the lien shall be on such terms as an order of the court shall provide.
- No person shall have a private cause of action against a public entity or employee for failing to carry out the provisions of the bill, and no public entity or employee shall be liable for any claim arising from the failure to fulfill the provisions of this bill, provided that a good faith effort was made to carry out the provisions of this bill.
- The bill takes effect on the first day of the twelfth month following the date of enactment.

The committee amendments:

-- specify the process for identifying the liens that shall be extinguished and communicating with appropriate parties;

-- require commercial public records companies that have obtained records of a lien filed against individuals treated at a psychiatric facilities from the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record, to remove the record from its database within a reasonable time;

-- provide for no private cause of action against a public entity or employee for failing to carry out the provisions of this bill, and no public entity or public employee shall be liable for any claim arising from the failure to fulfill the provisions of this bill, provided that a good faith effort was made to carry out its provisions.

As amended, this bill is identical to Senate Bill No. 1808 (SCA) (T.Kean/Vitale), which the committee also reported favorably on this date.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2038

with Senate Floor Amendments
(Proposed by Senator T. KEAN, JR.)

ADOPTED: JUNE 25, 2009

These amendments specify procedures for extinguishing and removing from public access those liens filed against persons who were treated at State or county-operated psychiatric facilities. Such liens were extinguished under Section 8 of P.L.2005, c.55 (C.30:4-80.6a).

For a lien related to the cost of patient care identified as an "institutional lien" on the records of the clerk of the county, register of deeds and mortgages, or any other public custodian of these records, where the issuer of the lien is a State or county-operated psychiatric facility (or any name variation of a State psychiatric facility identified by the Commissioner of Humana Services), the lien is required to be marked as extinguished, and the record of this lien must be removed from public access so that it is not available to a member of the public for inspection, review, or copying or included in any index available to the public on or after the bill's effective date.

A similar procedure is required for a lien identified on the records of the Clerk of the Superior Court as a "hospital" lien, except that for purposes of these liens, "lien" means a lien index, abstract or other record maintained in electronic or digital format.

The amendments also provide that to ensure that, to the extent practicable, a lien is removed from public access, joint cooperation is required among the Commissioner of Human Services, chief executive officer of a county-operated psychiatric facility, register of deeds and mortgages, and the Clerk of the Superior Court or any other public custodian of lien records.

The earlier version of this bill required the Commissioner of Human Services or the chief executive officer of a county-operated psychiatric facility, as appropriate, to identify, in cooperation with the clerk of the county, register of deeds and mortgages, the Clerk of the Superior Court, or other custodian of a lien record, a lien filed against a person treated at psychiatric facilities that is subject to public access restrictions. Upon notification by the commissioner or chief executive officer, the record would have been marked as extinguished and removed from public access.

SENATE, No. 1808

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED MAY 8, 2008

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Denies public access to extinguished psychiatric liens.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning public access to certain liens and
2 supplementing chapter 4 of Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Except as provided in subsection b. of this section and
8 notwithstanding the provisions of P.L.1963, c.73 (C. 47:1A-1 et
9 seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) or any other provision
10 of law to the contrary, all liens filed against a person treated at a
11 psychiatric facility as defined in section 2 of P.L.1987, c.116
12 (C.30:4-27.2) and any index of such liens shall be removed from
13 public access, and shall not be made available to a member of the
14 public for inspection, review, or copying or included in any index
15 that is available to the public on or after the effective date of this
16 act.

17 b. A member of the public may gain access to an individual lien
18 by applying to the Law Division of the Superior Court of the county
19 in which the lien was filed. The application shall be granted if, in
20 the discretion of the court, there is a demonstrated, necessary, and
21 reasonable basis and need for the access. The access and use of the
22 information about the lien shall be on such terms as an order of the
23 court shall provide.

24

25 2. This act shall take effect on the first day of the fourth month
26 following the date of enactment.

27

28

29

STATEMENT

30

31 This bill denies public access to records of a lien filed against a
32 person treated at a psychiatric facility for care and treatment at the
33 facility, but also establishes a mechanism to gain access to an
34 individual lien by applying to the Law Division of the Superior
35 Court. Under section 8 of P.L.2005, c.55 (N.J.S.A.30:4-80.6a),
36 psychiatric liens were extinguished and have no legal effect, and no
37 new liens are filed against a person treated at a psychiatric facility.
38 This bill would deny public access to the very personal and
39 confidential information about the existence of these liens.

40 Specifically, the bill provides that, notwithstanding the
41 provisions of the Open Public Records Act or any other provision of
42 law to the contrary, all liens filed against a person treated at a
43 psychiatric facility and any index of such liens shall be removed
44 from public access. The liens shall not be made available to a
45 member of the public for inspection, review, or copying or included
46 in any index that is available to the public on or after the effective
47 date of the bill.

1 However, a member of the public may gain access to an
2 individual lien by applying to the Law Division of the Superior
3 Court of the county in which the lien was filed. The application
4 would be granted if, in the discretion of the court, there is a
5 demonstrated, necessary, and reasonable basis and need for the
6 access. The access and use of the information about the lien would
7 be on such terms as an order of the court provides.

8 The bill has a delayed effective date of the first day of the fourth
9 month following the date of enactment to provide county clerks or
10 registers of deeds and mortgages, as applicable, with a reasonable
11 period of time to segregate the psychiatric lien records from the lien
12 records that are otherwise available for public inspection.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 1808

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 1808.

As amended, this bill denies public access to records of liens filed against individuals treated at psychiatric facilities, while establishing a mechanism to gain access to an individual lien under limited circumstances. N.J.S.A.30:4-80.6a, enacted in 2005, provided for extinguishing and giving no legal effect to existing psychiatric liens, and prohibited new liens from being filed. However, those existing liens still exist in public records.

Specifically, the bill provides that:

- The Commissioner of Human Services, in the case of any State-operated psychiatric facility, or the chief executive officer of any county-operated psychiatric facility, who caused a lien to be recorded against a person treated at the facility prior to the effective date of N.J.S.A.30:4-80.6a, shall identify, to the extent practicable, and in cooperation with the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian, liens filed against a person treated at a psychiatric facility that were recorded and are subject to the public access restrictions of this bill.
- Upon notification by the commissioner or chief executive officer to the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record, the lien shall be marked as extinguished, and the record of the lien and index shall be removed from public access by the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record. These records shall not be available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of the bill.
- Upon filing of a discharge certificate pursuant to N.J.S.A.30:4-80.6, which enables individuals treated at a psychiatric facility to have such liens discharged, the record of the lien and index shall be

removed from public access by the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian. It shall not be available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of this bill.

- Any commercial public records company that has obtained a record of a lien filed against an individual treated at a psychiatric facility from the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record, shall remove the record from its database within a reasonable time after the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court or other custodian has removed the record of such lien from public access.
- A member of the public may gain access to an individual lien by applying to the Superior Court of the county in which the lien was filed. The application shall be granted if, in the discretion of the court, there is a demonstrated, necessary, and reasonable basis and need for the access. The access and use of the information about the lien shall be on such terms as an order of the court shall provide.
- No person shall have a private cause of action against a public entity or employee for failing to carry out the provisions of the bill, and no public entity or employee shall be liable for any claim arising from the failure to fulfill the provisions of this bill, provided that a good faith effort was made to carry out the provisions of this bill.
- The bill takes effect on the first day of the twelfth month following the date of enactment.

The committee amendments:

-- specify the process for identifying the liens that shall be extinguished and communicating with appropriate parties;

-- require commercial public records companies that have obtained records of a lien filed against individuals treated at a psychiatric facilities from the clerk of the county, register of deeds and mortgages, Clerk of the Superior Court, or other custodian of such record, to remove the record from its database within a reasonable time;

-- provide for no private cause of action against a public entity or employee for failing to carry out the provisions of this bill, and no public entity or public employee shall be liable for any claim arising from the failure to fulfill the provisions of this bill, provided that a good faith effort was made to carry out its provisions.

As amended, this bill is identical to Assembly Bill No. 2038 (SCA) (Gusciora/Oliver/Cruz-Perez), which the committee also reported favorably on this date.

STATEMENT TO
[First Reprint]
SENATE, No. 1808

with Senate Floor Amendments
(Proposed by Senator T. KEAN)

ADOPTED: JUNE 18, 2009

These amendments specify procedures for extinguishing and removing from public access those liens filed against persons who were treated at State or county-operated psychiatric facilities. Such liens were extinguished under Section 8 of P.L.2005, c.55 (C.30:4-80.6a).

For a lien related to the cost of patient care identified as an "institutional lien" on the records of the clerk of the county, register of deeds and mortgages, or any other public custodian of these records, where the issuer of the lien is a State or county-operated psychiatric facility (or any name variation of a State psychiatric facility identified by the Commissioner of Humana Services), the lien is required to be marked as extinguished, and the record of this lien must be removed from public access so that it is not available to a member of the public for inspection, review, or copying or included in any index available to the public on or after the bill's effective date.

A similar procedure is required for a lien identified on the records of the Clerk of the Superior Court as a "hospital" lien, except that for purposes of these liens, "lien" means a lien index, abstract or other record maintained in electronic or digital format.

The amendments also provide that to ensure that, to the extent practicable, a lien is removed from public access, joint cooperation is required among the Commissioner of Human Services, chief executive officer of a county-operated psychiatric facility, register of deeds and mortgages, and the Clerk of the Superior Court or any other public custodian of lien records.

The earlier version of this bill required the Commissioner of Human Services or the chief executive officer of a county-operated psychiatric facility, as appropriate, to identify, in cooperation with the clerk of the county, register of deeds and mortgages, the Clerk of the Superior Court, or other custodian of a lien record, a lien filed against a person treated at psychiatric facilities that is subject to public access restrictions. Upon notification by the commissioner or chief executive officer, the record would have been marked as extinguished and removed from public access.