

By: Ellis

H.B. No. 180

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a lien on a cause of action or claim of an individual who  
3 receives certain medical services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 55, Property Code, is amended to read as  
6 follows:

7 CHAPTER 55. HOSPITAL AND EMERGENCY MEDICAL SERVICES LIENS [~~LIEN~~]

8 Sec. 55.001. DEFINITIONS. In this chapter:

9 (1) "Emergency medical services" has the meaning  
10 assigned by Section 773.003, Health and Safety Code.

11 (2) "Emergency medical services provider" has the  
12 meaning assigned by Section 773.003, Health and Safety Code.

13 (3) "Hospital" means a person or institution  
14 maintaining a facility that provides hospital services in this  
15 state.

16 (4) [~~(2)~~] "Person" does not include a county, common,  
17 or independent school district.

18 Sec. 55.002. LIEN. (a) A hospital has a lien on a cause of  
19 action or claim of an individual who receives hospital services for  
20 injuries caused by an accident that is attributed to the negligence  
21 of another person. For the lien to attach, the individual must be  
22 admitted to a hospital not later than 72 hours after the accident.

23 [~~(b)~~] The lien extends to both the admitting hospital and a  
24 hospital to which the individual is transferred for treatment of

1 the same injury.

2 (b) An emergency medical services provider has a lien on a  
3 cause of action or claim of an individual who receives emergency  
4 medical services for injuries caused by an accident that is  
5 attributed to the negligence of another person. For the lien to  
6 attach, the individual must receive the emergency medical services  
7 not later than 72 hours after the accident.

8 Sec. 55.003. PROPERTY TO WHICH LIEN ATTACHES. (a) A [~~The~~]  
9 lien under this chapter attaches to:

10 (1) a cause of action for damages arising from an  
11 injury for which the injured individual is admitted to the hospital  
12 or receives emergency medical services;

13 (2) a judgment of a court in this state or the decision  
14 of a public agency in a proceeding brought by the injured individual  
15 or by another person entitled to bring the suit in case of the death  
16 of the individual to recover damages arising from an injury for  
17 which the injured individual is admitted to the hospital or  
18 receives emergency medical services; and

19 (3) the proceeds of a settlement of a cause of action  
20 or a claim by the injured individual or another person entitled to  
21 make the claim, arising from an injury for which the injured  
22 individual is admitted to the hospital or receives emergency  
23 medical services.

24 (b) The lien does not attach to:

25 (1) a claim under the workers' compensation law of this  
26 state, the Federal Employees Liability Act, or the Federal  
27 Longshore and [~~Longshoremen's or~~] Harbor Workers' Compensation Act;

1 or

2 (2) [~~a claim against the owner or operator of a~~  
3 ~~railroad company that maintains or whose employees maintain a~~  
4 ~~hospital in which the injured individual is receiving hospital~~  
5 ~~services; or~~

6 [~~(3)~~] the proceeds of an insurance policy in favor of  
7 the injured individual or the injured individual's beneficiary or  
8 legal representative, except public liability insurance carried by  
9 the insured that protects the insured against loss caused by an  
10 accident or collision.

11 (c) A hospital lien described by Section 55.002(a) does not  
12 attach to a claim against the owner or operator of a railroad  
13 company that maintains or whose employees maintain a hospital in  
14 which the injured individual is receiving hospital services.

15 Sec. 55.004. AMOUNT OF LIEN. (a) A hospital [~~The~~] lien  
16 described by Section 55.002(a) is for the amount of the hospital's  
17 charges for services provided to the injured individual during the  
18 first 100 days of the injured individual's hospitalization, except  
19 that the lien does not cover:

20 (1) charges for operating costs that exceed the cost  
21 limits established under Section 405.460, 42 Code of Federal  
22 Regulations; or

23 (2) charges for other services that exceed a  
24 reasonable and regular rate for the services.

25 (b) An emergency medical services lien described by Section  
26 55.002(b) is for the amount charged by the emergency medical  
27 services provider for emergency medical services provided to the

1 injured individual during the 72 hours following the accident that  
2 caused the individual's injuries, except that the lien does not  
3 cover charges for services that exceed a reasonable and regular  
4 rate for the services.

5 (c) A hospital ~~[The]~~ lien described by Section 55.002(a) is  
6 not affected by a hospital's use of a method of classifying patients  
7 according to their ability to pay that is solely intended to obtain  
8 a lien for services provided to an indigent injured individual.

9 Sec. 55.005. SECURING LIEN. (a) To secure the lien, a  
10 hospital or emergency medical services provider must file written  
11 notice of the lien with the county clerk of the county in which the  
12 ~~[hospital]~~ services were provided. The notice must be filed before  
13 money is paid to an entitled person because of the injury.

14 (b) The notice must contain:

- 15 (1) the injured individual's name and address;  
16 (2) the date of the accident;  
17 (3) the name and location of the hospital or emergency  
18 medical services provider claiming the lien; and  
19 (4) the name of the person alleged to be liable for  
20 damages arising from the injury, if known.

21 (c) The county clerk shall record the name of the injured  
22 individual, the date of the accident, and the name and address of  
23 the hospital or emergency medical services provider and shall index  
24 the record in the name of the injured individual.

25 Sec. 55.006. DISCHARGE OF LIEN. (a) To discharge a ~~[the]~~  
26 lien under this chapter, the ~~[hospital]~~ authorities of the hospital  
27 or emergency medical services provider claiming the lien or the

1 person in charge of the finances of the hospital or emergency  
2 medical services provider must execute and file with the county  
3 clerk of the county in which the lien notice was filed a certificate  
4 stating that the debt covered by the lien has been paid or released  
5 and authorizing the clerk to discharge the lien.

6 (b) The county clerk shall record a memorandum of the  
7 certificate and the date it was filed.

8 (c) The filing of the certificate and recording of the  
9 memorandum discharge the lien.

10 Sec. 55.007. VALIDITY OF RELEASE. (a) A release of a  
11 cause of action or judgment to which a [the] lien under this chapter  
12 may attach is not valid unless:

13 (1) the ~~[hospital's]~~ charges of the hospital or  
14 emergency medical services provider claiming the lien were paid in  
15 full before the execution and delivery of the release;

16 (2) the ~~[hospital's]~~ charges of the hospital or  
17 emergency medical services provider claiming the lien were paid  
18 before the execution and delivery of the release to the extent of  
19 any full and true consideration paid to the injured individual by or  
20 on behalf of the other parties to the release; or

21 (3) the hospital or emergency medical services  
22 provider claiming the lien is a party to the release.

23 (b) A judgment to which a [the] lien under this chapter has  
24 attached remains in effect until the ~~[hospital's]~~ charges of the  
25 hospital or emergency medical services provider claiming the lien  
26 are paid in full or to the extent set out in the judgment.

27 Sec. 55.008. ~~[HOSPITAL]~~ RECORDS. (a) On request by an

1 attorney for a party by, for, or against whom a claim is asserted  
2 for damages arising from an injury, a hospital or emergency medical  
3 services provider shall as promptly as possible make available for  
4 the attorney's examination its records concerning the services  
5 provided to the injured individual.

6 (b) The hospital or emergency medical services provider may  
7 issue reasonable rules for granting access to its records under  
8 this section, but it may not deny access because a record is  
9 incomplete.

10 (c) The records are admissible, subject to applicable rules  
11 of evidence, in a civil suit arising from the injury.

12 SECTION 2. (a) This Act takes effect September 1, 2003.

13 (b) The change in law made by this Act applies only to  
14 emergency medical services provided by an emergency medical  
15 services provider on or after the effective date of this Act.  
16 Emergency medical services provided by an emergency medical  
17 services provider before the effective date of this Act are  
18 governed by the law in effect at the time the services were  
19 provided, and the former law is continued in effect for that  
20 purpose.