

1-1 By: Ogden S.B. No. 504
1-2 (In the Senate - Filed February 14, 2003; February 19, 2003,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 10, 2003, reported favorably, as amended, by the following
1-5 vote: Yeas 5, Nays 1; March 10, 2003, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Harris

1-7 Amend S.B. No. 504, in SECTION 1 of the bill, in Subsection (f),
1-8 Section 55.004, Property Code (Introduced version page 5, line 11;
1-9 Committee printing page 2, line 66), between "services provider"
1-10 and "for emergency medical services" by inserting ", not to exceed
1-11 \$1,000,".

1-12 A BILL TO BE ENTITLED
1-13 AN ACT

1-14 relating to a lien on a cause of action or claim of an individual who
1-15 receives emergency medical services.

1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-17 SECTION 1. Chapter 55, Property Code, is amended to read as
1-18 follows:

1-19 CHAPTER 55. HOSPITAL AND EMERGENCY MEDICAL SERVICES LIENS [~~LIEN~~]

1-20 Sec. 55.001. DEFINITIONS. In this chapter:

1-21 (1) "Emergency medical services" has the meaning
1-22 assigned by Section 773.003, Health and Safety Code.

1-23 (2) "Emergency medical services provider" has the
1-24 meaning assigned by Section 773.003, Health and Safety Code.

1-25 (3) "Hospital" means a person or institution
1-26 maintaining a facility that provides hospital services in this
1-27 state.

1-28 (4) [~~(2)~~] "Person" does not include a county, common,
1-29 or independent school district.

1-30 Sec. 55.002. LIEN. (a) A hospital has a lien on a cause of
1-31 action or claim of an individual who receives hospital services for
1-32 injuries caused by an accident that is attributed to the negligence
1-33 of another person. For the lien to attach, the individual must be
1-34 admitted to a hospital not later than 72 hours after the accident.

1-35 (b) The lien extends to both the admitting hospital and a
1-36 hospital to which the individual is transferred for treatment of
1-37 the same injury.

1-38 (c) An emergency medical services provider has a lien on a
1-39 cause of action or claim of an individual who receives emergency
1-40 medical services in a county with a population of 275,000 or less
1-41 for injuries caused by an accident that is attributed to the
1-42 negligence of another person. For the lien to attach, the
1-43 individual must receive the emergency medical services not later
1-44 than 72 hours after the accident.

1-45 Sec. 55.003. PROPERTY TO WHICH LIEN ATTACHES. (a) A [~~The~~]
1-46 lien under this chapter attaches to:

1-47 (1) a cause of action for damages arising from an
1-48 injury for which the injured individual is admitted to the hospital
1-49 or receives emergency medical services;

1-50 (2) a judgment of a court in this state or the decision
1-51 of a public agency in a proceeding brought by the injured individual
1-52 or by another person entitled to bring the suit in case of the death
1-53 of the individual to recover damages arising from an injury for
1-54 which the injured individual is admitted to the hospital or
1-55 receives emergency medical services; and

1-56 (3) the proceeds of a settlement of a cause of action
1-57 or a claim by the injured individual or another person entitled to
1-58 make the claim, arising from an injury for which the injured
1-59 individual is admitted to the hospital or receives emergency
1-60 medical services.

1-61 (b) The lien does not attach to:

1-62 (1) a claim under the workers' compensation law of this

2-1 state, the Federal Employees Liability Act, or the Federal
 2-2 Longshore and [Longshoremen's or] Harbor Workers' Compensation Act;
 2-3 or

2-4 (2) ~~[a claim against the owner or operator of a~~
 2-5 ~~railroad company that maintains or whose employees maintain a~~
 2-6 ~~hospital in which the injured individual is receiving hospital~~
 2-7 ~~services; or~~

2-8 [~~3~~] the proceeds of an insurance policy in favor of
 2-9 the injured individual or the injured individual's beneficiary or
 2-10 legal representative, except public liability insurance carried by
 2-11 the insured that protects the insured against loss caused by an
 2-12 accident or collision.

2-13 (c) A hospital lien described by Section 55.002(a) does not
 2-14 attach to a claim against the owner or operator of a railroad
 2-15 company that maintains or whose employees maintain a hospital in
 2-16 which the injured individual is receiving hospital services.

2-17 Sec. 55.004. AMOUNT OF LIEN. (a) In this section,
 2-18 "emergency hospital care" means health care services provided in a
 2-19 hospital to evaluate, stabilize, and treat a serious medical
 2-20 problem of recent onset or severity, including severe pain that
 2-21 would lead a prudent layperson possessing an average knowledge of
 2-22 medicine and health to believe that the condition, illness, or
 2-23 injury is of such a nature that failure to obtain immediate medical
 2-24 care would in all reasonable probability:

- 2-25 (1) seriously jeopardize the patient's health;
- 2-26 (2) seriously impair one or more bodily functions;
- 2-27 (3) seriously harm an organ or other part of the body;
- 2-28 (4) cause serious disfigurement; or
- 2-29 (5) in the case of a pregnant woman, seriously

2-30 jeopardize the health of the fetus.

2-31 (b) A hospital [The] lien described by Section 55.002(a) is
 2-32 for the amount of the hospital's charges for services provided to
 2-33 the injured individual during the first 100 days of the injured
 2-34 individual's hospitalization.

2-35 (c) A hospital [The] lien described by Section 55.002(a) may
 2-36 also include the amount of a physician's reasonable and necessary
 2-37 charges for emergency hospital care services provided to the
 2-38 injured individual during the first seven days of the injured
 2-39 individual's hospitalization. At the request of the physician, the
 2-40 hospital may act on the physician's behalf in securing and
 2-41 discharging the lien.

2-42 (d) A hospital [The] lien described by Section 55.002(a)
 2-43 does not cover:

2-44 (1) charges for other services that exceed a
 2-45 reasonable and regular rate for the services;

2-46 (2) charges by the physician related to any services
 2-47 provided under Subsection (c) for which the physician has accepted
 2-48 insurance benefits or payment under a private medical indemnity
 2-49 plan or program, regardless of whether the benefits or payment
 2-50 equals the full amount of the physician's charges for those
 2-51 services;

2-52 (3) charges by the physician for services provided
 2-53 under Subsection (c) if the injured individual has coverage under a
 2-54 private medical indemnity plan or program from which the physician
 2-55 is entitled to recover payment for the physician's services under
 2-56 an assignment of benefits or similar rights; or

2-57 (4) charges by the physician related to any services
 2-58 provided under Subsection (c) if the physician is a member of the
 2-59 legislature.

2-60 (e) A hospital [The] lien described by Section 55.002(a) is
 2-61 not affected by a hospital's use of a method of classifying patients
 2-62 according to their ability to pay that is solely intended to obtain
 2-63 a lien for services provided to an indigent injured individual.

2-64 (f) An emergency medical services lien described by Section
 2-65 55.002(c) is for the amount charged by the emergency medical
 2-66 services provider for emergency medical services provided to the
 2-67 injured individual during the 72 hours following the accident that
 2-68 caused the individual's injuries.

2-69 (g) An emergency medical services lien described by Section

3-1 55.002(c) does not cover:

3-2 (1) charges for services that exceed a reasonable and
 3-3 regular rate for the services;

3-4 (2) charges by the emergency medical services provider
 3-5 related to any services for which the emergency medical services
 3-6 provider has accepted insurance benefits or payment under a private
 3-7 medical indemnity plan or program, regardless of whether the
 3-8 benefits or payments equal the full amount of the charges for those
 3-9 services; or

3-10 (3) charges by the emergency medical services provider
 3-11 for services provided if the injured individual has coverage under
 3-12 a private medical indemnity plan or program from which the provider
 3-13 is entitled to recover payment for the provider's services under an
 3-14 assignment of benefits or similar right.

3-15 Sec. 55.005. SECURING LIEN. (a) To secure the lien, a
 3-16 hospital or emergency medical services provider must file written
 3-17 notice of the lien with the county clerk of the county in which the
 3-18 [~~hospital~~] services were provided. The notice must be filed before
 3-19 money is paid to an entitled person because of the injury.

3-20 (b) The notice must contain:

3-21 (1) the injured individual's name and address;

3-22 (2) the date of the accident;

3-23 (3) the name and location of the hospital or emergency
 3-24 medical services provider claiming the lien; and

3-25 (4) the name of the person alleged to be liable for
 3-26 damages arising from the injury, if known.

3-27 (c) The county clerk shall record the name of the injured
 3-28 individual, the date of the accident, and the name and address of
 3-29 the hospital or emergency medical services provider and shall index
 3-30 the record in the name of the injured individual.

3-31 Sec. 55.006. DISCHARGE OF LIEN. (a) To discharge a [~~the~~]
 3-32 lien under this chapter, the [~~hospital~~] authorities of the hospital
 3-33 or emergency medical services provider claiming the lien or the
 3-34 person in charge of the finances of the hospital or emergency
 3-35 medical services provider must execute and file with the county
 3-36 clerk of the county in which the lien notice was filed a certificate
 3-37 stating that the debt covered by the lien has been paid or released
 3-38 and authorizing the clerk to discharge the lien.

3-39 (b) The county clerk shall record a memorandum of the
 3-40 certificate and the date it was filed.

3-41 (c) The filing of the certificate and recording of the
 3-42 memorandum discharge the lien.

3-43 Sec. 55.007. VALIDITY OF RELEASE. (a) A release of a cause
 3-44 of action or judgment to which a [~~the~~] lien under this chapter may
 3-45 attach is not valid unless:

3-46 (1) the [~~hospital's~~] charges of the hospital or
 3-47 emergency medical services provider claiming the lien were paid in
 3-48 full before the execution and delivery of the release;

3-49 (2) the [~~hospital's~~] charges of the hospital or
 3-50 emergency medical services provider claiming the lien were paid
 3-51 before the execution and delivery of the release to the extent of
 3-52 any full and true consideration paid to the injured individual by or
 3-53 on behalf of the other parties to the release; or

3-54 (3) the hospital or emergency medical services
 3-55 provider claiming the lien is a party to the release.

3-56 (b) A judgment to which a [~~the~~] lien under this chapter has
 3-57 attached remains in effect until the [~~hospital's~~] charges of the
 3-58 hospital or emergency medical services provider claiming the lien
 3-59 are paid in full or to the extent set out in the judgment.

3-60 Sec. 55.008. [HOSPITAL] RECORDS. (a) On request by an
 3-61 attorney for a party by, for, or against whom a claim is asserted
 3-62 for damages arising from an injury, a hospital or emergency medical
 3-63 services provider shall as promptly as possible make available for
 3-64 the attorney's examination its records concerning the services
 3-65 provided to the injured individual.

3-66 (b) The hospital or emergency medical services provider may
 3-67 issue reasonable rules for granting access to its records under
 3-68 this section, but it may not deny access because a record is
 3-69 incomplete.

4-1 (c) The records are admissible, subject to applicable rules
4-2 of evidence, in a civil suit arising from the injury.

4-3 SECTION 2. (a) This Act takes effect September 1, 2003.

4-4 (b) The change in law made by this Act applies only to
4-5 emergency medical services provided by an emergency medical
4-6 services provider on or after the effective date of this Act.
4-7 Emergency medical services provided by an emergency medical
4-8 services provider before the effective date of this Act are
4-9 governed by the law in effect at the time the services were
4-10 provided, and the former law is continued in effect for that
4-11 purpose.

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