

BILL ANALYSIS

C.S.S.B. 747
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law allows a hospital or an emergency medical services provider to secure a lien against a patient for amounts owed as a result of services provided by the hospital or emergency services provider in connection with an injury resulting from an accident. The lien may be secured against money received by the injured patient from a suit based on the accident in which the individual was injured. However, hospitals and emergency services providers are not required to give a patient notice of the lien, which can leave a patient without the opportunity to pay the outstanding amounts owed before a lien has been secured. This is especially problematic for the patient when the amounts owed are for charges not covered by the patient's insurer since the patient may not be aware of the existence of an outstanding balance and have an opportunity to pay the outstanding amount owed before a lien is secured against the patient.

C.S.S.B. 747 requires a hospital or emergency medical services provider that seeks to secure a lien on a cause of action or claim of an individual who receives hospital service for injuries caused by an accident that is attributed to the negligence of another person to send written notice to the injured individual by certified mail, return receipt requested, to the individual's last known address on or before the date a hospital or provider files a notice of the lien with the county clerk.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 747 amends the Property Code to require a hospital or emergency medical services provider that seeks to secure a lien on a cause of action or claim of an individual who receives hospital service for injuries caused by an accident that is attributed to the negligence of another person to send written notice to the injured individual by certified mail, return receipt requested, to the individual's last known address on or before the date a hospital or provider files a notice of the lien with the county clerk. The bill requires the notice to the individual to state that a hospital lien may attach to any cause of action or claim the individual may have against another person for the individual's injuries for any unpaid charges for hospital services or emergency medical services provided in connection with the injuries and specifies to whom the charges may be owed; that the hospital or provider may file a notice of a hospital lien with the county clerk of the county in which the services were provided in accordance with state law; and that a hospital lien attaches to the proceeds of a cause of action or settlement the injured individual receives but does not attach to real property owned by the individual. The bill establishes that the failure of an individual to receive a notice mailed in accordance with these provisions does not affect the validity of a lien.

C.S.S.B. 747 establishes that a hospital is not required to provide notice by mail if the hospital provides the notice to the injured individual at the time of the individual's admission to the hospital and if the notice is provided in a written document separate from any other documents signed by or provided to the individual at the time of the individual's admission to the hospital and the notice is signed by the injured individual or the injured individual's representative. The bill establishes that an emergency medical services provider is not required to provide notice by mail if the provider provides the notice to the injured individual or the injured individual's representative at the time emergency medical services are provided and if the required notice is included on the emergency medical services authorization form in a paper or electronic version in a separate paragraph that is bolded and in at least 14-point type and is signed by the injured individual or the injured individual's representative. The bill provides that if consent for emergency care of an individual is not required under state law, notice provided on an emergency medical services authorization form to the injured individual is not required to be signed.

C.S.S.B. 747 specifies that the written notice of the lien that a hospital or emergency medical services provider files with the county clerk is required to contain the injured individual's last known address, and requires such notice also to contain an affirmation by an agent of the hospital or emergency medical services provider that the notice to the injured individual was given in accordance with the provisions described above.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 747 requires a hospital or emergency medical services provider to send a written notice of a lien to an injured individual on or before the date the hospital or provider files a notice of the lien with the county clerk, rather than not later than the 10th day before that date as in the original. The substitute adds a provision not in the original to require the notice to the injured individual to state that a hospital lien attaches to the proceeds of a cause of action or settlement the injured individual receives but does not attach to real property owned by the individual. The substitute differs from the original by clarifying that a provider is not required to provide notice by mail if the required notice is included on an emergency medical services authorization form in a paper or electronic version. The substitute differs from the original by requiring the written notice of the lien filed with the county clerk to contain an affirmation by an agent of the hospital or provider that the notice to the injured individual was given, whereas the original requires the notice to contain an affidavit by an agent of the hospital or provider that affirms the notice was given.