

BILL ANALYSIS

Senate Research Center

S.B. 328
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 55.002 (Lien), Property Code, 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 a cause of action, or monies received by the injured patient from a lawsuit based on the accident in which the individual was injured. Because the statute allowing a hospital or an emergency services provider to secure such a lien is located in the Property Code, injured patients may believe the lien encumbers real property owned by them.

S.B. 328 would require a hospital to give notice to the injured party or patient before placing a lien against the person's recovery in a lawsuit. Notice would inform the injured person about the possibility of a lien being filed so that the person would understand that the lien does not reflect a failure to pay the hospital amounts due, and that the lien does not encumber any real property interests of the injured person. Additionally, the injured person would understand the impact the lien may have on a recovery in a lawsuit.

S.B. 328 amends current law relating to notice of a hospital lien.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 55.005, Property Code, by amending Subsection (a) and adding Subsections (d) through (g), as follows:

(a) Requires a hospital or emergency medical services provider, to secure a lien, to:

(1) provide notice to the injured individual in accordance with Subsection (d);
and

(2) file written notice of the lien with the county clerk of the county in which the services were provided before money is paid to an entitled person because of the injury.

Makes nonsubstantive changes.

(d) Requires the hospital or emergency medical services provider, except as provided by Subsection (e), not later than the fifth business day after the date a hospital or emergency medical services provider receives notice from the county clerk that a notice of lien filed under Subsection (a)(2) has been recorded in the county records, to send a written notice to the injured individual or the injured individual's legal representative, by regular mail, to the individual's last known address informing the individual that:

(1) the lien will attach to any cause of action or claim the individual may have against another person for the individual's injuries; and

(2) the lien does not attach to real property owned by the individual.

(e) Provides that an emergency medical services provider is not required to provide notice by mail if the emergency medical services provider provides the notice required by Subsection (d) to the injured individual or the injured individual's representative at the time emergency medical services are provided and if:

(1) 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

(2) the notice is signed by the injured individual or the injured individual's representative, except as provided by Subsection (f).

(f) Provides that, for the purposes of Subsection (e), if consent for emergency care of an individual is not required under Section 773.008 (Consent for Emergency Care), Health and Safety Code, notice provided on an emergency medical services authorization form to the injured individual is not required to be signed.

(g) Provides that the failure of an individual to receive a notice mailed in accordance with Subsection (d) does not affect the validity of a lien under this chapter.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.