

BILL ANALYSIS

S.B. 328
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current provisions of the Property Code provide for a lien against an individual for an amount owed as a result of services provided by a hospital or by certain emergency services providers in connection with an injury resulting from an accident that is attributable to the negligence of another person. The law provides that the lien may be secured against a cause of action or claim by the injured individual relating to the accident. Some parties assert that, because the statute authorizing such a lien is in the Property Code, the lien may be perceived as encumbering real property owned by the injured individual.

S.B. 328 seeks to respond to this assertion by requiring a hospital or emergency services provider, before placing a lien against an injured individual's cause of action or claim, to notify the individual about the possibility of a lien being filed so the individual understands the effect of the lien and to include a statement that the lien does not encumber the injured individual's real property interests.

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

S.B. 328 amends the Property Code to require a hospital or emergency medical services provider, in order to secure a lien on a cause of action or claim of an individual who receives hospital services or emergency medical services in certain counties, as applicable, for injuries caused by an accident that is attributed to the negligence of another person and in addition to other measures, to provide notice to the injured individual. The bill requires the hospital or emergency medical services provider, except as otherwise provided by the bill and not later than the fifth business day after the date a hospital or emergency medical services provider receives notice from the clerk of the county in which the services were provided that a written notice of lien 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. The bill requires the written notice to inform the individual that the lien will attach to any cause of action or claim the individual may have against another person for the individual's injuries and that the lien does not attach to real property owned by the individual.

S.B. 328 establishes that an emergency medical services provider is not required to provide notice by mail if the provider provides the required written 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 the notice is signed by the injured individual or the injured individual's representative. The bill provides an exemption from the requirement for a signature if consent for the emergency care is not required under certain conditions and establishes that the failure of an individual to receive

notice mailed in accordance with the bill's provisions does not affect the validity of a hospital or emergency medical service lien.

EFFECTIVE DATE

September 1, 2011.