

## **BILL ANALYSIS**

Senate Research Center  
82R4119 AJA-D

S.B. 328  
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### **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.

As proposed, 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 Subsections (a) and (b) and adding Subsections (d), (e), (f), (g), and (h), 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), (e), or (f); 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.
- (b) Requires that the notice filed under Subsection (a)(2) contain, among other information, the injured individual's name and last known address, and an affirmation by an agent of the hospital or emergency services provider that the notice to the injured individual was given in accordance with Subsection (d). Makes a nonsubstantive change.
- (d) Requires the hospital or emergency services provider, except as provided by Subsection (e) or (f), on or before the date a hospital or emergency services provider files a notice with the county clerk under Subsection (a)(2), to send a written notice to the

injured individual by certified mail, return receipt requested, to the individual's last known address that states that:

(1) 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;

(2) the hospital or emergency services 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 Chapter 55 (Hospital and Emergency Medical Services Liens), Property Code; and

(3) 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.

(e) Provides that a hospital is not required to provide notice by mail if the hospital provides the notice required by Subsection (d) to the injured individual at the time of the individual's admission to the hospital and if:

(1) the notice is provided in a written document separate from any other documents signed by or provided to the injured individual at the time of the individual's admission to the hospital; and

(2) the notice is signed by the injured individual or the injured individual's representative.

(f) Provides that an emergency services provider is not required to provide notice by mail if the emergency 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) except as provided by Subsection (g), the notice is signed by the injured individual or the injured individual's representative.

(g) Provides that, for the purposes of Subsection (f), 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.

(h) 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.