

- SUBJECT:** Notice of hospital liens for emergency medical services
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 8 ayes — Deshotel, Bohac, Garza, Giddings, S. Miller, Quintanilla, Solomons, Workman
- 0 nays
- 1 absent — Orr
- SENATE VOTE:** On final passage, March 17—31-0, on Local and Uncontested Calendar
- WITNESSES:** No public hearing.
- BACKGROUND:** Property Code, ch. 55 allows hospitals and emergency medical services providers to file liens against any proceeds from future lawsuits or settlements received by patients receiving medical services due to an accident caused by the negligence of another.
- Property Code, sec. 55.005 requires that a hospital or emergency medical services provider file written notice of the lien with the county clerk in the county where the services were provided before any money is paid to the patient in a settlement or judgment. The notice must contain:
- the injured individual’s name;
 - the date of the accident;
 - the name and location of the hospital or emergency services provider claiming the lien; and
 - the name of the person alleged to be liable for the damages arising from the injury, if known.
- DIGEST:** SB 328 would require a hospital or emergency medical services provider — within five days of receiving notice from the county clerk that a lien had been placed on any future civil lawsuit to recover damages — to notify the patient plaintiff by mail that the lien:

- would attach to any cause of action or claim the individual may have against another person for the individual's injuries; and
- would not attach to real property owned by the patient.

An emergency medical services provider would not be required to provide this notice by mail if the provider gave notice to the injured party at the time emergency medical services were provided and the notice:

- was included on the emergency medical services authorization in a paper or electronic format in a separate bolded paragraph in at least 14-point type; and
- was signed, unless the recipient of the care was unable to sign or a parent, guardian, or representative was not present.

Under the bill, failure to receive mailed notice would not affect the validity of a lien.

The bill would take effect on September 1, 2011, and would apply only to a lien for emergency medical services provided on or after that date.

**SUPPORTERS
SAY:**

SB 328 would make notices of hospital liens more uniform and more informative for the patient. Currently, the process of notifying patients about hospital liens is not uniform among hospitals, which give notices of varying detail and at varying lengths of time from the date of treatment.

The bill would ensure that notification was timely, either at the time treatment was provided or within five days of the hospital or emergency medical service provider learning from the county clerk that their lien had attached to any future lawsuit by the patient.

The notice would be more informative for the patients because it would clarify that the lien attached only to future lawsuits and not to the patient's real property. Patients have been concerned for their real assets in the past because of vague notices that did not explain the nature of hospital liens.

SB 328 would strike an appropriate balance between providing patient notice and increasing the administrative burdens and regulations hospitals face.

OPPONENTS
SAY:

By stating that failure to receive notice would not affect the validity of a hospital lien under Property Code, ch. 55, SB 328 partially would remove the incentive for hospitals to provide adequate notice. If the goal is to improve patient awareness, then the bill should require use of certified mail to improve the chances a patient actually would receive it.