

HOSPITAL LIEN AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses hospital liens.

Highlighted Provisions:

This bill:

- addresses the availability of a hospital lien when the patient is covered by accident or health insurance or Medicare;

- reduces the amount that may be claimed for a hospital lien by a proportionate share of attorney's fees and other costs; and

- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

38-7-1, as last amended by Chapter 167, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **38-7-1** is amended to read:

38-7-1. Lien of hospital on judgment, settlement, or compromise in certain



accident cases authorized.

(1) (a) Every hospital located within the state that furnishes emergency, medical, or other service to a patient injured by reason of an accident not covered by workmen's compensation ~~[is entitled to]~~ may assert a lien upon that portion of the judgment, settlement, or compromise going or belonging to such patient, or, in the case of death, to ~~[such]~~ the patient's heirs or personal representatives, less the amount paid by, or on behalf of, the patient~~[-, or on behalf of such patient, by heirs or personal representatives]~~ for attorney's fees, court costs, and other necessary expenses incidental to obtaining the judgment, settlement, or compromise~~;~~ provided, that,

(b) Notwithstanding Subsection (1)(a), no reduction of the asserted lien amount other than the amount paid by the patient, or such patient's heirs, or personal representatives for attorney's fees, court costs, and other necessary expenses incidental to litigation is allowed, unless otherwise agreed to in writing by the lien claimant. ~~[The]~~

(c) A hospital lien[-, however, shall] does not apply to any judgment, settlement, or compromise where the amount is \$100 or less.

(d) This ~~[subsection shall apply]~~ Subsection (1) applies to any lien on file in the district court of the county on ~~[the effective date of this act]~~ March 22, 1997.

(e) Liens on file with the office of the county clerk shall be transferred to the respective county district court on May 1, 1996.

(2) ~~[A]~~ In accordance with Subsection (1), a hospital lien may be filed upon damages recovered, or to be recovered, either as a result of a judgment, or upon a contract of settlement or compromise, for the amount of the reasonable, usual, and necessary hospital charges for treatment, care, and maintenance of the injured party in the hospital up to the date of payment of the damages~~[-], if the patient did not have:~~

(a) accident and health insurance, as defined in Section 31A-1-301; or

(b) Medicare, as defined in Section 31A-22-620.

(3) In addition to a reduction in the amount of a judgment, settlement, or compromise available to a lien holder by the amount of attorney's fees, court costs, and other necessary expenses incidental to obtaining the judgment, settlement, or compromise under Subsection (1), a credit shall be applied against the lien amount equal to a proportionate share of attorney's fees paid by the patient, or the patient's representative, in securing the recovery to which the

59 lien is attached.

Legislative Review Note
as of 1-13-06 9:38 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note**Hospital Lien Amendments***23-Jan-06***Bill Number HB0108***12:04 PM*

State Impact

No fiscal impact.

Individual and Business Impact

Individual and business impacts will vary according to circumstances.

Office of the Legislative Fiscal Analyst