

ENROLLED SENATE  
BILL NO. 83

By: Shurden of the Senate

and

Monks of the House

An Act relating to liens; amending 42 O.S. 1991, Sections 44, 46 and 115, which relate to certain liens; allowing certain hospital liens to be enforced by civil action; specifying time limit; requiring practice, pleading and proceedings conform to certain rules; modifying time limit for which certain actions may be brought; limiting time for lien foreclosure; providing certain method of foreclosure; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 42 O.S. 1991, Section 44, is amended to read as follows:

Section 44. A. No such lien shall be effective unless a written notice containing an itemized statement of the amount claimed, the name and address of the injured person, the date of the accident, the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be filed in the office of the county clerk of the county in which such hospital is located, on the mechanic's and materialman's docket, prior to the payment of any monies to such injured person, his attorneys or legal representatives, as compensation for such injuries; nor unless the hospital shall also send, by registered or certified mail postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries sustained prior to the payment of any monies to such injured person, his attorneys or legal representatives, as compensation for such injuries. Such hospital shall mail a copy of such notice to any insurance carrier which has insured such person, firm or corporation against such liability, if the name and address shall be known. Such hospital shall also send, by registered or certified mail, a copy of such notice to such patient upon whom emergency medical or other service has been performed, if the name and address of such patient shall be known to the hospital or can with reasonable diligence be ascertained. A copy of said notice shall be mailed to any attorney for the patient, provided that the hospital has notice of the name of such attorney.

B. The liens provided for in this section and Section 43 of this title may be enforced by civil action in the district court of the county where the lien was filed. Such an action shall be brought within one (1) year after the hospital becomes aware of

final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, pleading and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

SECTION 2. AMENDATORY 42 O.S. 1991, Section 46, is amended to read as follows:

Section 46. A. Every physician who performs medical services for any person injured as a result of the negligence or act of another, shall, if the injured person asserts or maintains a claim against such other person for damages on account of such injuries, have a lien for the amount due for such medical services upon that part going or belonging to the injured person of any recovery or sum had or collected or to be collected by the injured person, or by his heirs, personal representative, or next of kin in the event of his death, whether by judgment, settlement, or compromise. Such lien shall be inferior to any lien or claim of any attorney handling the claim for or on behalf of the injured person. The lien shall not be applied or considered valid against any claim for amounts due pursuant to the provisions of Title 85 of the Oklahoma Statutes.

B. In addition to the lien provided for in subsection A of this section, every physician who performs medical services for any person injured as a result of the negligence or act of another, shall have, if the injured person asserts or maintains a claim against an insurer, a lien for the amount due for such medical services upon any monies payable by the insurer to the injured person.

C. No lien which is provided for in this section shall be effective unless, before the payment of any monies to the injured person, his attorney, or legal representative as compensation for such injuries or death:

1. A written notice is sent setting forth an itemized statement of the amount claimed, identifying the insurance policy or policies against which the lien is asserted, if any, and containing the name and address of the physician claiming the lien, the injured person, and the person, firm, or corporation against whom the claim is made, is filed on the mechanic's and materialman's lien docket in the office of the county clerk of the county where the principal office of the physician is located; and

2. The physician sends, by registered or certified mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person, firm, or corporation against whom the claim is made and to the injured person. The physician shall also send a copy of the notice to the attorney for the injured person, if the name and address of such attorney is known to the physician.

D. The liens provided for in this section may be enforced by civil action in the district court of the county where the lien was filed. Such an action shall be brought within one (1) year ~~from the time of the filing of the lien with the county clerk~~ after the physician becomes aware of final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, pleading, and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

SECTION 3. AMENDATORY 42 O.S. 1991, Section 115, is amended to read as follows:

Section 115. ~~Said~~ The lien created by Section 111 of this title may be foreclosed by the sale of the property so covered any time within six (6) months after the date of filing of the statement of lien, as provided in Section 112 of this title, in the same manner

as provided by law for the foreclosure of ~~chattel mortgages~~ a security interest in farm products pursuant to Article 9 of the Uniform Commercial Code.

SECTION 4. This act shall become effective September 1, 1994.  
Passed the Senate the 3rd day of May, 1994.

President of the Senate

Passed the House of Representatives the 11th day of May, 1994.

Speaker of the House of Representatives