

3 Senate Bill No. 538

4 SENATE BILL NO. 538 - By: ADELSON of the Senate and BALKMAN of the
5 House.

6 An Act relating to public health and safety; amending 63
7 O.S. 2001, Section 5051.1, which relates to liens; deleting
8 obsolete statutory reference; removing filing requirements
9 for certain liens; and providing an effective date.

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

11 SECTION 1. AMENDATORY 63 O.S. 2001, Section 5051.1, is
12 amended to read as follows:

13 Section 5051.1 A. 1. The payment of medical expenses by the
14 Oklahoma Health Care Authority for or on behalf of or the receipt of
15 medical assistance by a person who has been injured or who has
16 suffered a disease as a result of the negligence or act of another
17 person creates a debt to the Authority, subject to recovery by legal
18 action pursuant to this section.

19 2. The payment of medical expenses by the Authority for or on
20 behalf of a person who has been injured or who has suffered a
21 disease, and either has a claim or may have a claim against an
22 insurer, to the extent recoverable, creates a debt to the Authority
23 whether or not such person asserts or maintains a claim against an
24 insurer.

1 B. The Authority shall provide notice to all recipients of
2 medical assistance at the time of application for such assistance of
3 their obligation to report any claim or action, and any judgment,
4 settlement or compromise arising from the claim or action, for
5 injury or illness for which the Authority makes payments for medical
6 assistance.

7 C. The recipient of medical assistance from the Authority for
8 an injury or disease who asserts a claim or maintains an action
9 against another on account of the injury or disease, or the
10 recipient's legal representative, shall notify the Authority of the
11 claim or action and of any judgment, settlement or compromise
12 arising from the claim or action prior to the final judgment,
13 settlement or compromise.

14 D. If the injured or diseased person asserts or maintains a
15 claim against another person or tortfeasor on account of the injury
16 or disease, the Authority:

17 1. Shall have a lien upon payment of the medical assistance to
18 the extent of the amount so paid upon that part going or belonging
19 to the injured or diseased person of any recovery or sum had or
20 collected or to be collected by the injured or diseased person, or
21 by the heirs, personal representative or next of kin in case of the
22 death of the person, whether by judgment or by settlement or
23 compromise. The lien authorized by this subsection shall:

- 1 a. be inferior to any lien or claim of any attorney or
2 attorneys for handling the claim on behalf of the
3 injured or diseased person, the heirs or personal
4 representative,
5 b. not be applied or considered valid against any
6 temporary or permanent disability award of the
7 claimant due under the Workers' Compensation Act ~~in~~
8 ~~this state except as otherwise provided by Section~~
9 ~~200a of this title, and~~
10 c. be applied and considered valid as against any insurer
11 adjudged responsible for medical expenses under the
12 Workers' Compensation Act; ~~and~~

13 2. May take any other legal action necessary to recover the
14 amount so paid or to be paid to the injured or diseased person or to
15 the heirs, personal representative or next of kin in case of the
16 death of the person; and

17 ~~E. 1. To effectuate the lien authorized pursuant to this~~
18 ~~section, the Authority shall file a written notice containing a~~
19 ~~statement of the amount claimed, the name and address of the injured~~
20 ~~or diseased person, and the name of the person, firm or corporation~~
21 ~~alleged to be liable to the injured or diseased person for damages~~
22 ~~in the office of the clerk of the district court for the County of~~
23 ~~Oklahoma, State of Oklahoma, prior to the full payment of any monies~~

1 ~~to the injured or diseased person or to the heirs or personal~~
2 ~~representative of such person as damages or compensation for the~~
3 ~~injury or disease.~~

4 ~~2. The Authority shall also send by certified mail, return~~
5 ~~receipt requested, postage prepaid, a copy of the notice with a~~
6 ~~statement of the date of filing thereof to:~~

7 ~~a. the recipient of the medical assistance,~~

8 ~~b. any person, firm or corporation alleged to be liable~~
9 ~~to the injured or diseased person for damages so~~
10 ~~sustained,~~

11 ~~c. any insurer which may be ultimately liable, if the~~
12 ~~name and address shall be known, and~~

13 ~~d. any attorney for the injured or diseased person,~~
14 ~~provided the Authority has notice of the name of the~~
15 ~~attorney.~~

16 ~~3. The Authority shall~~ Shall have the right to file a written
17 notice of its lien in any action commenced by the injured or
18 diseased person.

19 ~~F.~~ E. The Authority, to secure and enforce the right of
20 recovery or reimbursement on behalf of the injured or diseased
21 person, may initiate and prosecute any action or proceeding against
22 any other person or tortfeasor who may be liable to the injured or

1 diseased person, if the injured or diseased person has not initiated
2 any legal proceedings against the other person or tortfeasor.

3 ~~G.~~ F. Any person or insurer that has been notified by the
4 Authority of a claim of lien authorized by this section and who,
5 directly or indirectly, pays to the recipient any money as a
6 settlement or compromise of the recipient's claim arising out of the
7 injury shall be liable to the Authority for the money value of the
8 medical assistance rendered by the Authority in an amount not in
9 excess of the amount to which the recipient was entitled to recover
10 from the tortfeasor or insurer because of the injury.

11 ~~H.~~ G. As used in this section:

12 1. "Medical expenses" includes the cost of hospital, medical,
13 surgical and dental services, care and treatment, rehabilitation,
14 and prostheses and medical appliances, and nursing and funeral
15 services;

16 2. "Person" includes, in addition to an individual, the
17 guardian of an individual, and the administrator or executor of the
18 estate of an individual, and a corporation; and

19 3. "Insurer" means any insurance company that administers
20 accident and health policies or plans or that administers any other
21 type insurance policy containing medical provisions, and any
22 nonprofit hospital service and indemnity and medical service and
23 indemnity corporation, actually engaged in business in the state,

1 regardless of where the insurance contract is written, or plan is
2 administered or where such corporation is incorporated.

3 SECTION 2. This act shall become effective November 1, 2005.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-15-05 - DO
5 PASS, As Coauthored.