

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 313

By: Simpson

AS INTRODUCED

An Act relating to Veterans Centers; creating lien for maintenance charges for residents of Veterans Centers; establishing procedures for filing an enforcement of lien; requiring certain contents for notice of proposed lien; providing for attachment and effective date of certain lien; establishing calculation for amount of lien; clarifying effect of lien on jointly owned property; establishing term of lien; providing for dissolution of lien; establishing methods of enforcement of certain lien; allowing transfer or assignment; classifying certain debt; authorizing certain agreements or employment; requiring promulgation of certain rules; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 244 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. Creation of Lien. Unpaid maintenance charges of residents of the Veterans Centers shall become a general lien upon all the property within this state, both real and personal, of the person

1 liable for the payment of the maintenance charge upon notice and
2 filing as directed by this section. Liens created pursuant to this
3 section may be filed or enforced for maintenance charges that remain
4 due and unpaid for a period of sixty (60) days or more and shall not
5 be barred by any statute of limitation.

6 B. Filing and Enforceability of Lien. The lien created by this
7 section may be filed and enforceable by this state through the
8 Department of Veterans Affairs following notice and opportunity for
9 a hearing. Submissions in response to the Notice of Proposed Lien
10 shall be reviewed and a hearing shall be provided, if requested, by
11 an administrative law judge. The findings and decision of an
12 administrative law judge shall constitute a final order and judgment
13 on the validity of the proposed lien.

14 C. Content of Notice of Proposed Lien. A Notice of Proposed
15 Lien and a copy of the resident's maintenance account billing and
16 payment history shall be provided to the resident, resident's agent
17 and any other parties known to be liable for the payment of the
18 resident's maintenance charges. The Notice of Proposed Lien shall
19 contain, at a minimum, the following information:

20 1. Resident's name, address and current residence or treatment
21 facility if different from the resident's mailing address;

22 2. Resident's date of admission term of residence in the
23 Veterans Center;

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1 3. Resident's date of discharge from the Veterans Center, if
2 applicable;

3 4. Name and address for all agents or other persons liable for
4 payment;

5 5. Amount of unpaid maintenance charges due as of the date of
6 the notice;

7 6. The monthly rate at which maintenance charges are assessed
8 as of the date of the notice, if the subject resident continues to
9 reside at the Veterans Center;

10 7. The manner, date and place to which written or documentary
11 responses for consideration may be submitted; and

12 8. The manner, date and place to which a request for hearing
13 may be submitted.

14 D. Effective Date of Lien. The lien shall attach to real
15 property upon filing of the lien with the county clerk of the county
16 in which any interest in real property is located. The lien shall
17 attach to real or personal property upon recognition as a foreign
18 judgment in the District Court. Liens created by this section shall
19 be secured by property in the priority established by Section 15 et
20 seq. of Title 42 of the Oklahoma Statutes relative to existing
21 perfected security interests in subject real and personal property
22 and subject only to such exemptions as may otherwise be provided by
23 law.

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1 E. Attachment of Lien to Proceeds from Sale of Property. Any
2 lien imposed under this section attaches to the proceeds of property
3 with the same priority that the lien has with respect to the
4 property itself. Proceeds of property means proceeds from the sale,
5 lease, license, exchange or other disposition of the property,
6 including insurance proceeds arising from the loss or destruction of
7 the property.

8 F. Amount of lien. The lien shall be for the amount of the
9 resident's unpaid maintenance charges at the time of the filing plus
10 any maintenance charges incurred subsequent to the filing of the
11 lien that are unpaid.

12 G. Extent of Lien on Jointly Owned Property. The lien shall
13 not sever a joint tenancy nor affect the right of survivorship. The
14 lien shall be enforceable only to the extent of the ownership of the
15 resident as it existed at the time of the resident's admission to
16 the Veterans Center.

17 H. Term of Lien. Liens established pursuant to this section
18 shall continue in effect until dissolved or released.

19 I. Dissolving the Lien. The lien remains on the property even
20 after transfer of title by conveyance, sale, succession, inheritance
21 or will unless or until the lien is satisfied. The resident or
22 resident's representative may discharge the lien at any time by
23 paying the amount of lien to this state through the Department of
24 Veterans Affairs.

1 J. Lien Enforcement. A lien may be foreclosed or enforced
2 against real or personal property during or after the lifetime of
3 the resident. Liens against real property may be foreclosed by the
4 Department and the property concerned shall be sold in the manner
5 provided for foreclosures of mortgages on land. Enforcement action
6 shall not be instituted on property that is the homestead of the
7 resident's spouse, minor dependent child or disabled child until the
8 death or relocation of the qualifying family member, or until the
9 property otherwise no longer qualifies as a homestead property.

10 K. Assignment of Liens. Liens established pursuant to this
11 section may be transferred or assigned in full or in part in
12 furtherance of efforts to recover amounts due to this state.

13 L. Estate Recovery. As a debt due to this state, liens created
14 by this section shall be classified as a preferential debt under the
15 laws of this state in proceedings for administration of an estate
16 and shall be prioritized as set forth in paragraph 5 of Section 591
17 of Title 58 of the Oklahoma Statutes. Notice to creditors in estate
18 administration or probate proceedings shall be submitted to the
19 Oklahoma Department of Veterans Affairs, Attn: General Counsel, PO
20 Box 53067, Oklahoma City, OK, 73152 on behalf of any estate that
21 contains debts resulting from unpaid maintenance charges at Oklahoma
22 Veterans Center or property subject to liens for unpaid maintenance
23 charges.

1 M. Order of Assignment for Past Due Accounts. The Department of
2 Veterans Affairs may require a resident of a Veterans Center that
3 remains past due for a period of sixty (60) days or more to assign
4 his or her right to receive payment of income, from whatever source
5 to the Department of Veterans Affairs. A Notice of Proposed Order
6 for Assignment shall be given to the resident or resident's agent
7 not less than thirty (30) days prior to issuance of said Order. The
8 Notice shall contain the same information required for a Notice of
9 Proposed Lien pursuant to subsection C of this section. Documentary
10 or written responses to the Notice of Proposed Order for Assignment
11 shall be reviewed and a hearing shall be provided, if requested, by
12 an administrative law judge. Any resident subject to such an
13 assignment may petition for relief from assignment, which may be
14 granted until such amount is made current, and the veteran
15 demonstrates to the satisfaction of the Executive Director a
16 reasonable likelihood of more prudent financial management in the
17 future.

18 N. Administrative Law Judges. The Oklahoma Department of
19 Veterans Affairs is authorized to enter into agreements with other
20 state agencies or to employ or contract for services of hearing
21 officers to serve as administrative law judges.

22 O. Rulemaking Authority. The Oklahoma Department of Veterans
23 Affairs shall prepare and the Oklahoma Veterans Commission shall
24 approve such rules and regulations as are necessary to establish

1 forms, processes and procedures for the implementation of recovery
2 of unpaid maintenance charges as described in this section.

3 SECTION 2. This act shall become effective November 1, 2017.

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