



General Assembly

Amendment

January Session, 2017

LCO No. 7826



Offered by:

- REP. LEMAR, 96th Dist.
- REP. STAFSTROM, 129th Dist.
- REP. BERGER, 73rd Dist.
- REP. REBIMBAS, 70th Dist.
- REP. CUMMINGS, 74th Dist.

To: House Bill No. 6221

File No. 544

Cal. No. 359

"AN ACT CONCERNING RECOVERY OF PAYMENTS FROM COLLATERAL SOURCES BY A MUNICIPALITY WITH A SELF-INSURED HEALTH PLAN."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 7-464 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2017*):

5 (a) Any town, city or borough may, through its authorized officials,
6 provide such form or forms of group life, health and accident and
7 hospital plan benefits for its employees as it deems advisable. Any
8 town, city or borough that provides health and accident and hospital
9 plan benefits for its employees may arrange and procure the same
10 benefits for each active member of a volunteer fire company or
11 department or volunteer ambulance service or company within such

12 town, city or borough, provided the member (1) elects coverage under
13 such plan or plans, (2) pays one hundred per cent of the premium
14 charged and any additional costs for such coverage, and (3) meets the
15 requirements for active status set forth by said town, city or borough.

16 (b) If the town, city or borough has less than twenty employees, no
17 health and accident and hospital plan for such employees may provide
18 for reduced coverage for any employee who has reached the age of
19 sixty-five and is eligible for Medicare benefits or any employee's
20 spouse who has reached age sixty-five and is eligible for Medicare
21 benefits except to the extent such coverage is provided by Medicare. If
22 the town, city or borough has twenty or more employees, the terms of
23 any such plan shall entitle any employee who has attained the age of
24 sixty-five and any employee's spouse who has attained the age of
25 sixty-five to group hospital, surgical or medical insurance coverage
26 under the same conditions as any covered employee or spouse who is
27 under the age of sixty-five.

28 (c) A self-insured town, city or borough that provides group health
29 benefits for its employees has a lien on that part of a judgment or
30 settlement that represents payment for economic loss for medical,
31 hospital and prescription expenses incurred by its employees and their
32 covered dependents and family members when such expenses result
33 from the negligence or recklessness of a third party. The self-insured
34 town, city or borough may recover such paid health benefits from any
35 tortfeasor recovery but only upon the following terms and conditions:

36 (1) In no event shall any commercial insurance company which
37 provides health insurance benefits to the employees of a town, city or
38 borough and their covered dependents and family members,
39 including, but not limited to, stop loss insurance beyond a municipal
40 self-funded medical expense amount, be entitled to any
41 reimbursement from a tortfeasor recovery. The provisions of this
42 subsection shall be construed to only permit a self-insured town, city
43 or borough to recover medical expenses paid from its own revenues.
44 The provisions of this subsection shall not be construed to permit a

45 self-insured town, city or borough to recover medical expenses paid
46 from an insured plan, whether insured in whole or in part.

47 (2) No lien shall exist against any tortfeasor recovery when the self-
48 insured town, city or borough paid an amount equal to or less than
49 fifteen thousand dollars for medical, hospital and prescription
50 expenses incurred by its employee, covered dependent or family
51 member.

52 (3) Any lien permitted under this subsection shall be limited to that
53 portion of any settlement or judgment that represents payment for
54 economic loss for medical, hospital and prescription expenses paid as
55 of the time of settlement or judgment, and reduced as set forth in
56 subdivision (4) of this subsection.

57 (4) The lien shall be reduced by:

58 (A) Any percentage of comparative negligence attributed to the
59 employee under section 52-572h;

60 (B) The percentage ratio that the employee's legal fees and costs bear
61 to the total judgment or settlement recovered; and

62 (C) Application of equitable defenses to the lien amount claimed
63 including, but not limited to, the make whole doctrine and unjust
64 enrichment. If agreement cannot be reached on the application of
65 equitable defenses to the claimed lien amount, then either the
66 employee, covered dependent, family member or the self-insured
67 town, city or borough may petition the Superior Court for resolution
68 on the application of equitable defenses. Any such petition to the
69 Superior Court shall be heard by a judge of the Superior Court and
70 shall be privileged for a hearing assignment and any such hearing shall
71 be held not later than thirty days after the date of filing the application.

72 (5) The lien shall be effective when written notice of the lien is
73 provided to the employee or his or her attorney but only if written
74 notice of the lien is provided prior to any settlement or the entry of

75 judgment. Written notice shall be deemed effective if the group health
76 plan coverage booklet provided to the employee, covered dependent
77 or family member contains clear language in conspicuous bold face
78 font that the employee, covered dependent or family member shall
79 reimburse the self-insured town, city or borough from any tortfeasor
80 recovery for medical, hospital and prescription expenses paid due to
81 the negligence of a third party as limited by the provisions of this
82 subsection.

83 (6) Upon written request from the employee, covered dependent
84 family member or such individual's attorney after settlement or the
85 entry of judgment, the self-insured town, city or borough shall have
86 thirty days to provide the employee or his or her attorney with the
87 total amount of the lien claimed. If the total amount claimed is not
88 provided by the self-insured town, city or borough within such thirty-
89 day period, then the self-insured town, city or borough shall be
90 deemed to have waived any lien and shall have no further claim of lien
91 for medical, hospital and prescription expenses paid from the
92 tortfeasor recovery.

93 (d) As used in subsection (c) of this section: (1) "Self-insured town,
94 city or borough" means a town, city or borough that provides group
95 health benefits to its employees by paying submitted medical, hospital
96 and prescription expense claims from its revenues; and (2) "tortfeasor
97 recovery" means moneys paid by or on behalf of the person or entity
98 whose negligence or recklessness caused the injuries for which
99 medical, hospital and prescription expenses were incurred. "Tortfeasor
100 recovery" includes claims in negligence or recklessness based upon
101 wrongful death under section 52-555 and claims based upon negligent
102 operation of a motor vehicle owned by the state under section 52-556.
103 "Tortfeasor recovery" does not include any recovery based upon
104 liability for any torts other than negligence or recklessness, including,
105 but not limited to, causes of action based upon any provision of the
106 general statutes, intentional misconduct, and uninsured or
107 underinsured motorist claims."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	7-464