

By Representative Sublette

1                                   A bill to be entitled  
2           An act relating to liens; amending s. 15.16,  
3           F.S.; providing for electronic filing of  
4           records with the Department of State; creating  
5           s. 55.201, F.S.; requiring the Department of  
6           State to maintain a database of judgment lien  
7           certificates; creating s. 55.202, F.S.;  
8           providing for acquisition of a judgment lien on  
9           personal property; creating s. 55.203, F.S.;  
10          providing requirements concerning the contents  
11          of a judgment lien certificate; providing for  
12          filing and indexing of judgment lien  
13          certificates by the Department of State;  
14          creating s. 55.204, F.S.; providing for lapse  
15          of a judgment lien; providing for acquisition  
16          of a second judgment lien; creating s. 55.205,  
17          F.S.; providing for the effect of a judgment  
18          lien; creating s. 55.206, F.S.; providing for  
19          amendment, termination, partial release,  
20          assignment, tolling, or correction of a  
21          recorded judgment lien; creating s. 55.207,  
22          F.S.; providing for filing of a statement  
23          concerning an inaccurate or wrongfully filed  
24          certificate of judgment lien; providing for the  
25          effect of such a filing; creating s. 55.208,  
26          F.S.; providing for the effect of this act on  
27          writs of execution delivered to a sheriff prior  
28          to the effective date of this act; creating s.  
29          55.209, F.S.; providing Department of State  
30          responsibilities and filing fees; amending s.  
31          55.604, F.S.; limiting the effect of a foreign

1 judgment as a lien on personal property in this  
2 state; providing an effective date.

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Section 15.16, Florida Statutes, is amended  
7 to read:

8 15.16 Reproduction of records; admissibility in  
9 evidence; electronic receipt and transmission of records;  
10 certification; acknowledgment.--

11 (1) The Department of State may cause to be made  
12 copies of any records maintained by it by miniature  
13 photographic microfilming or microphotographic processes or  
14 any other photographic, mechanical, or other process  
15 heretofore or hereafter devised, including electronic data  
16 processing.

17 (2) Photographs, nonerasable optical images, or  
18 microphotographs in the form of film, facsimiles, or prints of  
19 any records made in compliance with the provisions of this  
20 section shall have the same force and effect as the originals  
21 thereof and shall be treated as originals for the purpose of  
22 their admissibility in evidence. Duly certified or  
23 authenticated reproductions of such photographs, nonerasable  
24 optical images, or microphotographs shall be admitted in  
25 evidence equally with the original photographs, nonerasable  
26 optical images, or microphotographs.

27 (3) The Department of State may cause to be received  
28 electronically any records that are required to be filed with  
29 it under chapter 55, chapter 606,~~pursuant to~~ chapter 607,  
30 chapter 608, chapter 617, chapter 620, chapter 621, chapter  
31 679, chapter 713, or chapter 865, through facsimile or other

1 electronic transfers, for the purpose of filing such records.  
2 The originals of all such electronically transmitted records  
3 must be executed in the manner prescribed by the department  
4 ~~provided by law and must contain in the lower left hand corner~~  
5 ~~of the first page the name, address, and telephone number of~~  
6 ~~the preparer of the original and, if prepared by an attorney~~  
7 ~~licensed in this state, the preparer's Florida Bar membership~~  
8 ~~number.~~ The receipt of such electronic transfer constitutes  
9 delivery to the department as required by law.

10 (4) Notwithstanding any other provision of law, the  
11 department may certify or acknowledge and electronically  
12 transmit any record maintained by it. The certification must  
13 be evidenced by a certification code on each page transmitted  
14 which must include the charter or filing number of the  
15 document, date of transmission, and page number of the total  
16 number of pages transmitted, and a sequential certification  
17 number assigned by the department which will identify the  
18 transmission and be available for verification of any  
19 transmitted acknowledgment or certified document.

20 (5) Notwithstanding any other law, for the purposes of  
21 electronic filing ~~if not otherwise provided by law,~~ the  
22 Department of State shall determine:

23 (a) The appropriate format, which must be retrievable  
24 or reproducible in typewritten or printed form and must be  
25 legible.

26 (b) The manner of execution, which may include any  
27 symbol, manual, facsimile, conformed, or electronic signature  
28 adopted by a person with the present intent to authenticate a  
29 document.

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1       (c) The method of electronic transmission, and fee  
2 payment for any document placed under its jurisdiction for  
3 filing or recordation.

4       (d) The amount of any fee surcharge for the use of an  
5 electronic filing format.

6       (6) The Department of State may use the contractual  
7 services of other government or private sector trading  
8 partners in the provision of any electronic filing services.  
9 ~~by rule, the appropriate format for, number of copies of,~~  
10 ~~manner of execution of, method of electronic transmission of,~~  
11 ~~and amount of and method of payment of fees for any document~~  
12 ~~placed under its jurisdiction for filing or recordation.~~

13       Section 2. Section 55.201, Florida Statutes, is  
14 created to read:

15       55.201 Centralized judgment liens on personal  
16 property.--The Department of State shall maintain a database  
17 of judgment lien certificates filed in compliance with ss.  
18 55.201-55.209. It is the intent of the Legislature that the  
19 Department of State file and provide database information via  
20 electronic means to the public, but may not permit or provide  
21 the bulk sale of such information in any form.

22       Section 3. Section 55.202, Florida Statutes, is  
23 created to read:

24       55.202 Judgments, orders and decrees; lien on personal  
25 property.--

26       (1) A judgment lien securing the unpaid amount of any  
27 money judgment may be acquired by the holder of a judgment of  
28 a court of this state; of a court of the United States having  
29 jurisdiction in this state; of a court of the United States or  
30 any other state to the extent enforceable under the Florida  
31 Enforcement of Foreign Judgments Act, ss. 55.501-55.509; or of

1 a foreign state as defined in the Uniform Out-of-Country  
2 Foreign Money-Judgment Recognition Act, ss. 55.601-55.607,  
3 from the time and to the extent enforceable thereunder.

4 (2) The judgment lien may be acquired on the judgment  
5 debtor's interest in all personal property subject to  
6 execution in this state, other than fixtures, money, and  
7 negotiable instruments. The lien is obtained by filing a  
8 judgment lien certificate with the Department of State after  
9 the judgment has become final and if no stay of the judgment  
10 or its enforcement is in effect at the time the certificate is  
11 filed. The judgment lien is effective as of the date of  
12 filing, but no lien attaches to property until the debtor  
13 acquires an interest in the property. Except as provided in s.  
14 55.204(2), a judgment creditor may file only one effective  
15 judgment lien certificate based upon a particular judgment.

16 Section 4. Section 55.203, Florida Statutes, is  
17 created to read:

18 55.203 Judgment lien certificate; content, filing, and  
19 indexing.--

20 (1) An original judgment lien certificate, as provided  
21 in s. 55.202, must include:

22 (a) The legal name of the judgment debtor and, if a  
23 recorded legal entity, the registered name and document filing  
24 number as shown in the records of the Department of State;

25 (b) The last known address and social security number  
26 or federal employer identification number of the judgment  
27 debtor;

28 (c) The legal name of the judgment creditor and, if a  
29 recorded legal entity, the registered name and document filing  
30 number as shown in the records of the Department of State, and  
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1 the name of the judgment creditor's attorney or duly  
2 authorized representative, if any;  
3 (d) The address and social security number or federal  
4 employer identification number of the judgment creditor;  
5 (e) The court in which the judgment was entered and  
6 the record number and date of filing;  
7 (f) The amount due on the money judgment and the  
8 applicable interest rate; and  
9 (g) The signature of the judgment creditor or the  
10 judgment creditor's attorney or duly authorized  
11 representative.  
12 (2) In the case of a second judgment lien certificate,  
13 as provided in s. 55.204(2), the filing must comply with the  
14 provisions of subsection (1) and must state the file number of  
15 the original judgment lien certificate, the money amount  
16 remaining unpaid, and the interest accrued thereon.  
17 (3) In the case of an amendment as provided in s.  
18 55.206 or a correction statement as provided in s. 55.207, the  
19 filing must state the file number of the judgment lien to  
20 which the amendment or correction statement relates and state  
21 the action, change, or statement to be added to the judgment  
22 lien record.  
23 (4) The Department of State shall examine each  
24 submitted recording for compliance with ss. 55.201-55.209 and  
25 file or reject the document accordingly.  
26 (a) For each judgment lien filed the department shall:  
27 1. Assign a unique number to the filed record;  
28 2. Create a record that bears the number assigned to  
29 the filed record and the date of filing;  
30 3. Maintain the filed record for electronic public  
31 inspection;

1           4. Index the original judgment lien certificate  
2 according to the name of the judgment debtor; and

3           5. Index all subsequently filed records relating to  
4 the original judgment lien certificate in a manner that  
5 associates them to the original judgment lien certificate.

6           (5) The Department of State shall prescribe mandatory  
7 forms of all instruments to be filed under this section.

8           Section 5. Section 55.204, Florida Statutes, is  
9 created to read:

10           55.204 Duration and continuation of judgment lien;  
11 destruction of records.--

12           (1) Except as provided in this section, a judgment  
13 lien acquired under s. 55.203 lapses and becomes invalid 5  
14 years after the date of filing.

15           (2) At any time after the 6th month prior to the  
16 scheduled lapse of a judgment lien acquired under s. 55.203,  
17 the judgment creditor may obtain a second judgment lien by  
18 recording a new judgment certificate. The second lien becomes  
19 effective on the date of lapse of the original lien or on the  
20 date on which the new judgment certificate is recorded,  
21 whichever is later. The second lien is a new lien and not a  
22 continuation of the original judgment lien. The second lien  
23 permanently lapses and becomes invalid 5 years after its  
24 effective date, and no additional liens based on the original  
25 judgment may be obtained.

26           (3) An original or second lien continues for an  
27 additional 90 days after lapse in any specific property that  
28 has been itemized with particularity in instructions for levy  
29 which have been delivered to a sheriff prior to the time of  
30 lapse. The lien will continue only if the itemized property  
31 and its location are described with sufficient particularity

1 to permit the sheriff to act, and only if the property is  
2 located in the county in which the sheriff has jurisdiction at  
3 the time of delivery of the instruction. Subsequent removal of  
4 the property does not defeat the lien. A court may order  
5 continuation of the lien beyond the 90-day period on a showing  
6 that extraordinary circumstances have prevented levy.

7 (4) Until at least 1 year after a judgment lien record  
8 lapses under this section with respect to all judgment  
9 creditors of record, the Department of State shall maintain a  
10 record of the information contained in the judgment lien  
11 record.

12 Section 6. Section 55.205, Florida Statutes, is  
13 created to read:

14 55.205 Effect of judgment lien.--

15 (1) A valid judgment lien gives the judgment creditor  
16 the right to take possession of the property subject to lien  
17 through writ of execution, garnishment, or other judicial  
18 process. A judgment creditor who has not filed a judgment lien  
19 certificate or whose lien has lapsed may nevertheless take  
20 possession of the judgment debtor's property through such  
21 judicial process. A judgment creditor proceeding by writ of  
22 execution obtains a lien as of the time of levy and only on  
23 the property levied upon.

24 (2) A buyer in the ordinary course of business as  
25 defined in s. 671.201(9) takes free of a judgment lien created  
26 under this section even though the buyer knows of its  
27 existence. A valid security interest as defined in chapter 679  
28 in after-acquired property of the judgment debtor which is  
29 perfected prior to the effective date of a judgment lien takes  
30 priority over the judgment lien on the after-acquired  
31 property.



1       (3) If the enforceability of the judgment lien is  
2 temporarily stayed or enjoined as a result of any legal or  
3 equitable proceeding, the time for lapse of the judgment lien  
4 is tolled until 30 days after the stay or injunction is  
5 terminated.

6       (4) The validity of a certificate filed with the  
7 Department of State may not be defeated by technical or  
8 clerical errors made in good faith which are not seriously  
9 misleading, nor may any claim of estoppel be based on such  
10 errors.

11       Section 7. Section 55.206, Florida Statutes, is  
12 created to read:

13       55.206 Amendment of recorded judgment lien;  
14 termination, partial release, assignment, tolling,  
15 correction.--

16       (1) An amendment to a recorded judgment lien may be  
17 filed by the judgment creditor of record, as provided in s.  
18 55.203, which may provide for:

19       (a) The termination, partial release, or assignment of  
20 the judgment creditor's interest in a judgment lien;

21       (b) The tolling of a lapse of a judgment lien, as  
22 provided in s. 55.205(3);

23       (c) The correction or change of any other information  
24 provided in a recorded judgment lien; or

25       (d) The recording of a statement, as provided in  
26 subsection (3) or s. 55.207, which is signed by a person other  
27 than the judgment creditor of record.

28       (2) Within 30 days following written demand by the  
29 judgment debtor after there is no outstanding obligation or  
30 the obligation has been partially released, the judgment  
31 creditor must send to the judgment debtor a statement

1 indicating that there is no longer a claim for a lien on the  
2 personal property of the judgment debtor or that the judgment  
3 lien has been partially released and setting forth the value  
4 of the lien remaining unpaid as of the date of the statement.  
5 A statement signed by a person other than the record judgment  
6 creditor must include or be accompanied by the assignment or a  
7 separate written statement of assignment signed by the  
8 judgment creditor of record. If the affected judgment creditor  
9 fails to send such a statement within 10 days after proper  
10 written demand therefor, the judgment creditor is liable to  
11 the judgment debtor for \$100, and in addition for any loss  
12 caused to the judgment debtor, including attorney's fees, by  
13 such failure.

14 (3) The judgment debtor may file such statement with  
15 the Department of State.

16 Section 8. Section 55.207, Florida Statutes, is  
17 created to read:

18 55.207 Correction of recorded judgment lien.--

19 (1) A person may file with the Department of State a  
20 correction statement with respect to a recorded judgment lien  
21 indexed under the person's name if the person believes that  
22 the record is inaccurate or was wrongfully filed.

23 (2) A correction statement must:

24 (a) State the judgment debtor named and the file  
25 number assigned to the original judgment lien to which the  
26 correction statement relates;

27 (b) Indicate that it is a correction statement; and

28 (c) Either:

29 1. Provide the basis for the person's belief that the  
30 record was wrongfully filed; or

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1           2. Provide the basis for the person's belief that the  
2 record is inaccurate and indicate the manner in which the  
3 person believes the record should be corrected to cure any  
4 inaccuracy.

5           (3) The filing of a correction statement does not  
6 affect the effectiveness of the original judgment lien or  
7 other filed record.

8           Section 9. Section 55.208, Florida Statutes, is  
9 created to read:

10           55.208 Effect of recorded judgment lien on writs of  
11 execution previously delivered to a sheriff.--

12           (1) Any lien created by a writ of execution that has  
13 been delivered to the sheriff of any county prior to October  
14 1, 1999, remains in effect for 2 years after that date as to  
15 any property of the judgment debtor located in that county on  
16 October 1, 1999, and remaining in that county after that date.  
17 As to any property of the judgment debtor brought into the  
18 county on or after October 1, 1999, such writs create no lien,  
19 inchoate or otherwise.

20           (2) If a judgment creditor who has delivered a writ of  
21 execution to a sheriff in any county prior to October 1, 1999,  
22 properly records a judgment lien certificate with the  
23 Department of State by October 1, 2001, together with a  
24 certification by the sheriff as to the date on which the writ  
25 was delivered, the resulting judgment lien is considered to  
26 have been recorded on the date the writ was delivered to the  
27 sheriff as to all leviable property of the judgment debtor  
28 that is located in that county on October 1, 1999, and that  
29 remains continuously in that county thereafter. As to all  
30 other property of the judgment debtor, the effective date of  
31 the judgment lien is as provided in s. 55.202. The duration of

1 all judgment liens is as provided in ss. 55.204 and 55.205(3),  
2 regardless of the date on which a lien is determined to have  
3 been recorded.

4 (3) If a judgment creditor who has delivered a writ of  
5 execution to a sheriff in any county prior to October 1, 1999,  
6 does not properly record a judgment lien certificate with the  
7 Department of State by October 1, 2001, such writ is  
8 considered to have been abandoned and to be of no effect after  
9 October 1, 2001.

10 Section 10. Section 55.209, Florida Statutes is  
11 created to read:

12 55.209 Department of State; processing fees,  
13 responsibilities.--

14 (1) The Department of State shall collect the  
15 following nonrefundable processing fees:

16 (a) For any judgment lien certificate or other  
17 instrument permitted to be filed, \$20.

18 (b) For the certification of any recorded document,  
19 \$10.

20 (c) For copies of judgment lien instruments which are  
21 produced by the Department of State, \$1 per page or part  
22 thereof. However, no charge may be collected for copies  
23 provided in an online electronic format via the Internet.

24 (d) For indexing a judgment lien by multiple judgment  
25 debtor names, \$5 per additional name.

26 (e) For each additional facing page attached to a  
27 judgment lien certificate or instrument permitted to be filed,  
28 \$5.

29 (2) The Department of State may not conduct any search  
30 of the record database to determine the existence or  
31 nonexistence of any recorded lien for any purpose. The

1 information maintained is for public notice purposes only and  
2 the department may make no certification or determination of  
3 the validity of any recorded claim of lien.

4 (3) The Department of State shall ensure the  
5 availability of electronic access to the information it  
6 maintains on the database via the Internet for public use, but  
7 may not permit or provide for the bulk sale of such  
8 information in any form.

9 Section 11. Subsection (8) is added to section 55.604,  
10 Florida Statutes, to read:

11 55.604 Recognition and enforcement.--Except as  
12 provided in s. 55.605, a foreign judgment meeting the  
13 requirements of s. 55.603 is conclusive between the parties to  
14 the extent that it grants or denies recovery of a sum of  
15 money. Procedures for recognition and enforceability of a  
16 foreign judgment shall be as follows:

17 (8) A judgment lien on personal property is created  
18 only when a judgment lien certificate satisfying the  
19 requirements of s. 55.203 has been recorded with the  
20 Department of State.

21 Section 12. This act shall take effect October 1,  
22 1999.

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SENATE SUMMARY

Provides for the electronic filing of documents with the Department of State. Requires the department to maintain a database of judgment lien certificates on personal property. Provides that such liens may be acquired on a judgment debtor's interest in all personal property subject to execution in the state except fixtures, money, and negotiable instruments. Prescribes filing and indexing requirements. Provides for the duration of judgment liens and for the destruction of records. Provides that a valid judgment lien gives the judgment creditor the right to take possession of the personal property subject to lien through writ of execution, garnishment, or other judicial process. Establishes the effect of such liens. Prescribes procedures for filing amendments or correction statements relating to a recorded judgment lien indexed in a person's name. Authorizes the department to collect processing fees. Requires the department to ensure the availability to the public of electronic access to such information. Conditions the effect of a foreign judgment as a lien on personal property upon a properly recorded judgment lien certificate filed with the department.