

By the Committee on Judiciary

308-543A-99

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.