

1 A bill to be entitled
2 An act relating to judgment liens; providing a short
3 title; amending s. 55.202, F.S.; specifying that
4 payment intangibles, accounts, and the proceeds
5 thereof are subject to judgment liens; exempting
6 certain mobile homes from personal property subject to
7 judgment liens; providing construction; amending s.
8 55.205, F.S.; deleting a provision specifying the
9 priority of certain judgment creditor liens;
10 specifying the validity and enforceability of judgment
11 liens against motor vehicles, mobile homes, and
12 vessels; providing a procedure for noting the lien on
13 the certificate of title; specifying restrictions on
14 the enforcement of judgment liens; specifying an
15 account debtor's authority to discharge the account
16 debtor's obligation to pay payment intangibles,
17 accounts, or the proceeds thereof; amending s. 55.208,
18 F.S.; providing construction relating to the effect of
19 liens existing before a specified date on payment
20 intangibles and accounts and the proceeds thereof;
21 deleting an obsolete provision relating to judgment
22 liens on writs of execution previously delivered to a
23 sheriff; amending s. 55.209, F.S.; conforming a cross-
24 reference; amending s. 56.29, F.S.; requiring a court,
25 under certain circumstances, to order the Department

26 of Highway Safety and Motor Vehicles to note certain
 27 liens on the certificate of title of certain motor
 28 vehicles, mobile homes, or vessels and in the
 29 department's records; amending s. 319.24, F.S.;
 30 prohibiting the department from issuing a motor
 31 vehicle or mobile home certificate of title under
 32 certain circumstances; specifying procedures for a
 33 judgment lienholder to place a lien on motor vehicles,
 34 certain mobile homes, or vessels; revising
 35 requirements for the department if a certificate of
 36 title is not forwarded or returned to the department
 37 under certain circumstances; revising the authority of
 38 certain persons to demand and receive a lien
 39 satisfaction; requiring a lienholder to enter a
 40 satisfaction in a certificate of title upon
 41 satisfaction or lapse of a judgment lien; amending s.
 42 319.241, F.S.; revising circumstances under which the
 43 department may not remove a lien from the department's
 44 records or a certificate of title and specifying a
 45 requirement for the department; providing an effective
 46 date.

47

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

49

50 Section 1. This act may be cited as the "Judgment Lien

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51 Improvement Act."

52 Section 2. Subsections (2) and (5) of section 55.202,
53 Florida Statutes, are amended to read:

54 55.202 Judgments, orders, and decrees; lien on personal
55 property.—

56 (2) A judgment lien may be acquired on a judgment debtor's
57 interest in all personal property in this state subject to
58 execution under s. 56.061, including payment intangibles and
59 accounts and the proceeds thereof, as those terms are defined in
60 s. 679.1021(1), but excluding ~~other than~~ fixtures, money,
61 negotiable instruments, mobile homes to which title has been
62 retired, and mortgages.

63 (a) For payment intangibles and accounts and the proceeds
64 thereof:

65 1. The rights of a judgment lienholder under this section
66 are subject to the rights under chapter 679 of a secured party,
67 as defined in s. 679.1021(1), who has a prior filed financing
68 statement encumbering such payment intangibles or accounts and
69 the proceeds thereof.

70 2. This section does not affect the obligation under s.
71 679.607(1) of an account debtor as defined in s. 679.1021(1),
72 except as the rights and obligations under this paragraph are
73 otherwise adjudicated under applicable law in a legal proceeding
74 to which the secured party and account debtor are joined as
75 parties.

76 (b) A judgment lien is acquired by filing a judgment lien
77 certificate in accordance with s. 55.203 with the Department of
78 State after the judgment has become final and if the time to
79 move for rehearing has lapsed, no motion for rehearing is
80 pending, and no stay of the judgment or its enforcement is then
81 in effect. A court may authorize, for cause shown, the filing of
82 a judgment lien certificate before a judgment has become final
83 when the court has authorized the issuance of a writ of
84 execution in the same matter. A judgment lien certificate not
85 filed in compliance with this subsection is permanently void and
86 of no effect.

87 (c)~~(b)~~ For any lien, warrant, assessment, or judgment
88 collected by the Department of Revenue, a judgment lien may be
89 acquired by filing the judgment lien certificate information or
90 warrant with the Department of State in accordance with
91 subsection (5).

92 (d)~~(e)~~ Except as provided in s. 55.208, the effective date
93 of a judgment lien is the date, including the time of day, of
94 filing. Although no lien attaches to property, and a creditor
95 does not become a lien creditor as to liens under chapter 679,
96 until the debtor acquires an interest in the property, priority
97 among competing judgment liens is determined in order of filing
98 date and time.

99 (e)~~(d)~~ Except as provided in s. 55.204(3), a judgment
100 creditor may file only one effective judgment lien certificate

101 based upon a particular judgment.

102 (5) Liens, assessments, warrants, or judgments filed
 103 pursuant to paragraph (2) (c) ~~(2) (b)~~ may be filed directly into
 104 the central database by the Department of Revenue, or its
 105 designee as determined by its executive director, through
 106 electronic or information data exchange programs approved by the
 107 Department of State. Such filings must contain the information
 108 set forth in s. 55.203(1).

109 Section 3. Subsection (1) of section 55.205, Florida
 110 Statutes, is amended, and subsections (5), (6), and (7) are
 111 added to that section, to read:

112 55.205 Effect of judgment lien.—

113 (1) A judgment creditor who has not acquired a judgment
 114 lien as provided in s. 55.202 or whose lien has lapsed may
 115 nevertheless proceed against the judgment debtor's property
 116 through any appropriate judicial process. Such judgment creditor
 117 proceeding by writ of execution acquires a lien as of the time
 118 of levy and only on the property levied upon. ~~Except as provided~~
 119 ~~in s. 55.208, such judgment creditor takes subject to the claims~~
 120 ~~and interest of priority judgment creditors.~~

121 (5) (a) If the judgment debtor's personal property, to the
 122 extent not exempt from execution, includes a motor vehicle, a
 123 mobile home, or a vessel for which a Florida certificate of
 124 title has been issued, a judgment lien acquired under this
 125 section on such property not yet noted on the certificate of

126 title is valid and enforceable against the judgment debtor.
127 However, such judgment lien is not enforceable against creditors
128 or subsequent purchasers of such property for valuable
129 consideration whose interests have been noted on the certificate
130 of title as provided in s. 319.27.

131 (b) A judgment lienholder may obtain an order instructing
132 the Department of Highway Safety and Motor Vehicles to note the
133 lien on the certificate of title through a court of competent
134 jurisdiction conducting proceedings supplementary to execution
135 under s. 56.29(6)(b).

136 (6) A judgment lien acquired under s. 55.202 may be
137 enforced only through judicial process, including attachment
138 under chapter 76; execution under chapter 56; garnishment under
139 chapter 77; a charging order under s. 605.0503, s. 620.1703, or
140 s. 620.8504; or proceedings supplementary to execution under s.
141 56.29. A holder of a judgment lien acquired pursuant to this
142 chapter may not enforce his or her rights under this section
143 through self-help repossession or replevin without the express
144 consent of the judgment debtor in a record authenticated after
145 default.

146 (7) Notwithstanding the attachment of a judgment lien
147 acquired under s. 55.202 to payment intangibles or accounts and
148 the proceeds thereof, the account debtor may, absent receipt of
149 notice under s. 679.607(1)(a) from a secured party, discharge
150 the account debtor's obligation to pay payment intangibles or

151 accounts or the proceeds thereof by paying the judgment debtor
 152 until, but not after, the account debtor is served by process
 153 with a complaint or petition by the judgment creditor seeking
 154 judicial relief with respect to the payment intangibles or
 155 accounts. Thereafter, the account debtor may discharge the
 156 account debtor's obligation to pay payment intangibles or
 157 accounts or the proceeds thereof under this section only in
 158 accordance with a final order or judgment issued in such
 159 judicial process that complies with this section.

160 Section 4. Section 55.208, Florida Statutes, is amended to
 161 read:

162 55.208 Effect of prior liens on payment intangibles and
 163 accounts; effect of filed judgment lien on writs of execution
 164 previously delivered to a sheriff.-

165 (1) A judgment lien under s. 55.202 existing before
 166 October 1, 2022, becomes enforceable and perfected as of October
 167 1, 2022, as to payment intangibles and accounts and the proceeds
 168 thereof of a judgment debtor under s. 55.202(2). Any security
 169 interest or lien on payment intangibles or accounts and the
 170 proceeds thereof of a judgment debtor which is enforceable and
 171 perfected before October 1, 2022, continues to have the same
 172 rights and priority as existed before October 1, 2022, and may
 173 not be primed as to payment intangibles or accounts by a
 174 judgment lien certificate filed before October 1, 2022 ~~Any lien~~
 175 ~~created by a writ of execution which has been delivered to the~~

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176 ~~sheriff of any county before October 1, 2001, remains in effect~~
177 ~~for 2 years thereafter as to any property of the judgment debtor~~
178 ~~located in that county before October 1, 2001, and remaining~~
179 ~~within that county after that date. As to any property of the~~
180 ~~judgment debtor brought into the county on or after October 1,~~
181 ~~2001, such writs create no lien, inchoate or otherwise.~~

182 (2) If a judgment creditor who has delivered a writ of
183 execution to a sheriff in any county prior to October 1, 2001,
184 properly files a judgment lien certificate with the Department
185 of State by October 1, 2003, the resulting judgment lien is
186 deemed filed on the date the writ was delivered to the sheriff
187 as to all property of the judgment debtor subject to execution
188 in this state under s. 56.061 which is located in that county on
189 October 1, 2001, and that remains continuously in that county
190 thereafter. Priority of such judgment liens is determined as of
191 the effective date they are considered to have been filed. As to
192 all other property of the judgment debtor, the effective date of
193 the judgment lien is as provided in s. 55.202. The duration of
194 all judgment liens is as provided in s. 55.204.

195 (3) If a judgment creditor who has delivered a writ of
196 execution to a sheriff in any county before October 1, 2001,
197 does not properly file a judgment lien certificate with the
198 Department of State by October 1, 2003, such writ is considered
199 to have been abandoned and to be of no effect after October 1,
200 2003.

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201 Section 5. Subsection (1) of section 55.209, Florida
 202 Statutes, is amended to read:

203 55.209 Department of State; processing fees,
 204 responsibilities.—

205 (1) Except for liens, assessments, warrants, or judgments
 206 filed electronically as provided in s. 55.202(2)(c) ~~s.~~
 207 ~~55.202(2)(b)~~, the Department of State shall collect the
 208 following nonrefundable processing fees for all documents filed
 209 in accordance with ss. 55.201-55.209:

210 (a) For any judgment lien certificate or other documents
 211 permitted to be filed, \$20.

212 (b) For the certification of any filed document, \$10.

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

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

219 (e) For each additional facing page attached to a judgment
 220 lien certificate or document permitted to be filed, \$5.

221 Section 6. Subsection (6) of section 56.29, Florida
 222 Statutes, is amended to read:

223 56.29 Proceedings supplementary.—

224 (6) (a) The court may order any property of the judgment
 225 debtor ~~7~~ not exempt from execution ~~7~~ or any property, debt, or

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226 other obligation due to the judgment debtor, in the hands of or
227 under the control of any person subject to the Notice to Appear,
228 to be levied upon and applied toward the satisfaction of the
229 judgment debt. The court may enter any orders, judgments, or
230 writs required to carry out the purpose of this section,
231 including those orders necessary or proper to subject property
232 or property rights of any judgment debtor to execution, and
233 including entry of money judgments as provided in ss. 56.16-
234 56.19 against any person to whom a Notice to Appear has been
235 directed and over whom the court obtained personal jurisdiction
236 irrespective of whether such person has retained the property,
237 subject to applicable principles of equity, and in accordance
238 with chapters 76 and 77 and all applicable rules of civil
239 procedure. Sections 56.16-56.20 apply to any order issued under
240 this subsection.

241 (b) If the personal property of the judgment debtor
242 includes a motor vehicle, a mobile home, or a vessel that is
243 nonexempt to any extent from execution and for which a Florida
244 certificate of title has been issued, on presentation of a copy
245 of a valid judgment lien certificate acquired under s. 55.202,
246 the court must order the Department of Highway Safety and Motor
247 Vehicles to note the liens of the judgment creditor on the
248 certificate of title and in the records of the department.

249 Section 7. Subsections (2) and (4) and paragraphs (a) and
250 (b) of subsection (5) of section 319.24, Florida Statutes, are

251 amended to read:

252 319.24 Issuance in duplicate; delivery; liens and
 253 encumbrances.—

254 (2) A duly authorized person shall sign the original
 255 certificate of title and each corrected certificate and, if
 256 there are no liens or encumbrances on the motor vehicle or
 257 mobile home, as shown in the records of the department or as
 258 shown in the application, shall deliver the certificate to the
 259 applicant or to another person as directed by the applicant or
 260 person, agent, or attorney submitting such application. The
 261 motor vehicle dealer license number must be submitted to the
 262 department when a dealer applies for or receives a duplicate
 263 title. The current odometer reading must be submitted on an
 264 application for a duplicate title. If there are one or more
 265 liens or encumbrances on the motor vehicle or mobile home, the
 266 certificate shall be delivered by the department to the first
 267 lienholder as shown by department records or to the owner as
 268 indicated in the notice of lien filed by the first lienholder
 269 pursuant to s. 319.27. If the notice of lien filed by the first
 270 lienholder indicates that the certificate should be delivered to
 271 the first lienholder, the department shall deliver to the first
 272 lienholder, along with the certificate, a form to be
 273 subsequently used by the lienholder as a satisfaction. If the
 274 notice of lien filed by the first lienholder directs the
 275 certificate of title to be delivered to the owner, then, upon

276 delivery of the certificate of title by the department to the
277 owner, the department shall deliver to the first lienholder
278 confirmation of the receipt of the notice of lien and the date
279 the certificate of title was issued to the owner at the owner's
280 address shown on the notice of lien and a form to be
281 subsequently used by the lienholder as a satisfaction. If the
282 application for certificate shows the name of a first lienholder
283 different from the name of the first lienholder as shown by the
284 records of the department or if the application does not show
285 the name of a judgment lienholder as shown by the records of the
286 department, the certificate shall not be issued to any person
287 until after all parties who appear to hold a lien and the
288 applicant for the certificate have been notified of the conflict
289 in writing by the department by certified mail. If the parties
290 do not amicably resolve the conflict within 10 days from the
291 date such notice was mailed, then the department shall serve
292 notice in writing by certified mail on all persons appearing to
293 hold liens on that particular vehicle, including the applicant
294 for the certificate, to show cause within 15 days from the date
295 the notice is mailed why it should not issue and deliver the
296 certificate to the person indicated in the notice of lien filed
297 by the lienholder whose name appears in the application as the
298 first lienholder without showing any lien or liens as
299 outstanding other than those appearing in the application or
300 those which may have been filed subsequent to the filing of the

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301 application for the certificate. If, within the 15-day period,
302 any person other than the lienholder shown in the application or
303 a party filing a subsequent lien, in answer to such notice to
304 show cause, appears in person or by a representative, or
305 responds in writing, and files a written statement under oath
306 that his or her lien on that particular vehicle is still
307 outstanding, the department shall not issue the certificate to
308 anyone until after such conflict has been settled by the lien
309 claimants involved or by a court of competent jurisdiction. If
310 the conflict is not settled amicably within 10 days of the final
311 date for filing an answer to the notice to show cause, the
312 complaining party shall have 10 days to obtain a ruling, or a
313 stay order, from a court of competent jurisdiction; if no ruling
314 or stay order is issued and served on the department within the
315 10-day period, it shall issue the certificate showing no liens
316 except those shown in the application or thereafter filed to the
317 original applicant if there are no liens shown in the
318 application and none are thereafter filed, or to the person
319 indicated in the notice of lien filed by the lienholder whose
320 name appears in the application as the first lienholder if there
321 are liens shown in the application or thereafter filed. A
322 duplicate certificate or corrected certificate shall only show
323 such lien or liens as were shown in the application and
324 subsequently filed liens that may be outstanding.

325 (4) (a)1. If the owner of the motor vehicle or mobile home,

326 as shown on the title certificate, or the director of the state
327 child support enforcement program, or the director's designee,
328 desires to place a second or subsequent lien or encumbrance
329 against the motor vehicle or mobile home when the title
330 certificate is in the possession of the first lienholder, the
331 owner shall send a written request to the first lienholder by
332 certified mail, and such first lienholder shall forward the
333 certificate to the department for endorsement. If the title
334 certificate is in the possession of the owner, the owner shall
335 forward the certificate to the department for endorsement.

336 2. If the holder of a judgment lien acquired under s.
337 55.202(2) on personal property of the owner desires to place a
338 lien on the motor vehicle, a mobile home to which the title has
339 not been retired, or a vessel, the judgment lienholder must send
340 a written request to the department together with a copy of the
341 lienholder's judgment lien certificate. The department shall add
342 the name of the judgment lienholder to the records of the
343 department. The judgment lienholder must also send a written
344 request to the person in possession of the title certificate by
345 certified mail, and that person shall forward the certificate to
346 the department for endorsement.

347 (b) The department shall return the certificate to either
348 the first lienholder or to the owner, as indicated in the notice
349 of lien filed by the first lienholder, after endorsing the
350 second or subsequent lien on the certificate and on the

351 duplicate. If the first lienholder or owner fails, neglects, or
 352 refuses to forward the certificate of title to the department
 353 within 10 days after ~~from~~ the date of the owner's, the judgment
 354 lienholder's, or the director's or designee's request, the
 355 department, on the written request of the subsequent lienholder
 356 or an assignee thereof, shall demand of the first lienholder or
 357 the owner the return of such certificate for the notation of the
 358 second or subsequent lien or encumbrance. If the first
 359 lienholder or owner fails, neglects, or refuses to return the
 360 certificate to the department as requested, the department must
 361 void the certificate of title and issue a replacement
 362 certificate showing the notation of the subsequent lien or
 363 encumbrance.

364 (5) (a) Upon satisfaction of any first lien, judgment lien,
 365 or encumbrance recorded at the department or upon lapse of a
 366 judgment lien, the owner of the motor vehicle or mobile home, as
 367 shown on the title certificate, or the person satisfying the
 368 lien ~~is shall be~~ entitled to demand and receive from the
 369 lienholder a satisfaction of the lien. If the lienholder, upon
 370 satisfaction of the lien and upon demand, fails or refuses to
 371 furnish a satisfaction thereof within 30 days after demand, he
 372 or she shall be held liable for all costs, damages, and
 373 expenses, including reasonable attorney ~~attorney's~~ fees,
 374 lawfully incurred by the titled owner or person satisfying the
 375 lien in any suit brought in this state for cancellation of the

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376 | lien. A motor vehicle dealer acquiring ownership of a motor
377 | vehicle with an outstanding purchase money lien, shall pay and
378 | satisfy the outstanding lien within 10 working days of acquiring
379 | ownership. The lienholder receiving final payment as defined in
380 | s. 674.215 shall mail or otherwise deliver a lien satisfaction
381 | and the certificate of title indicating the satisfaction within
382 | 10 working days of receipt of such final payment or notify the
383 | person satisfying the lien that the title is not available
384 | within 10 working days of receipt of such final payment. If the
385 | lienholder is unable to provide the certificate of title and
386 | notifies the person of such, the lienholder shall provide a lien
387 | satisfaction and shall be responsible for the cost of a
388 | duplicate title, including fast title charges as provided in s.
389 | 319.323. The provisions of this paragraph shall not apply to
390 | electronic transactions pursuant to subsection (9).

391 | (b) Following satisfaction of a lien or upon satisfaction
392 | or lapse of a judgment lien, the lienholder shall enter a
393 | satisfaction thereof in the space provided on the face of the
394 | certificate of title. If the certificate of title was retained
395 | by the owner, the owner shall, within 5 days of the satisfaction
396 | of a lien, deliver the certificate of title to the lienholder
397 | and the lienholder shall enter a satisfaction thereof in the
398 | space provided on the face of the certificate of title. If there
399 | are no subsequent liens shown thereon, the certificate shall be
400 | delivered by the lienholder to the person satisfying the lien or

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401 | encumbrance and an executed satisfaction on a form provided by
402 | the department shall be forwarded to the department by the
403 | lienholder within 10 days of satisfaction of the lien.

404 | Section 8. Section 319.241, Florida Statutes, is amended
405 | to read:

406 | 319.241 Removal of lien from records.—The owner of a motor
407 | vehicle or mobile home upon which a lien has been filed with the
408 | department or noted upon a certificate of title for a period of
409 | 5 years may apply to the department in writing for such lien to
410 | be removed from the department files or from the certificate of
411 | title. The application shall be accompanied by evidence
412 | satisfactory to the department that the applicant has notified
413 | the lienholder by certified mail, not less than 20 days prior to
414 | the date of the application, of his or her intention to apply to
415 | the department for removal of the lien. Ten days after receipt
416 | of the application, the department may remove the lien from its
417 | files or from the certificate of title, as the case may be, if
418 | no statement in writing protesting removal of the lien is
419 | received by the department from the lienholder within the 10-day
420 | period. If, however, the lienholder files with the department
421 | within the 10-day period a written statement that the lien is
422 | still outstanding or that a second judgment lien certificate has
423 | been filed with the Department of State, the department shall
424 | not remove the lien until the lienholder presents a satisfaction
425 | of lien to the department. If a second judgment lien certificate

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426 | was filed with the Department of State, the department must
427 | remove the notice of the first judgment lien certificate and add
428 | notation of the second judgment lien certificate at the end of
429 | all noted liens. Ten days after the receipt of an application
430 | for a derelict motor vehicle certificate and notification to the
431 | lienholder, the department may remove the lien from the derelict
432 | motor vehicle record if a written statement protesting removal
433 | of the lien is not received by the department from the
434 | lienholder within the 10-day period.

435 | Section 9. This act shall take effect July 1, 2022.