

By Senator Rouson

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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; providing
6 construction; amending s. 55.205, F.S.; deleting a
7 provision specifying the priority of certain judgment
8 creditor liens; specifying the validity and
9 enforceability of judgment liens against motor
10 vehicles and vessels; providing a procedure for noting
11 a lien on the certificate of title; specifying
12 restrictions on the enforcement of judgment liens;
13 specifying an account debtor's authority to discharge
14 the account debtor's obligation to pay payment
15 intangibles, accounts, or the proceeds thereof;
16 amending s. 55.208, F.S.; providing construction
17 relating to the effect of liens existing before a
18 specified date on payment intangibles and accounts and
19 the proceeds thereof; deleting an obsolete provision
20 relating to judgment liens on writs of execution
21 previously delivered to a sheriff; amending s. 55.209,
22 F.S.; conforming a cross-reference; amending s. 56.29,
23 F.S.; requiring a court, under certain circumstances,
24 to order the Department of Highway Safety and Motor
25 Vehicles to note certain liens on the certificate of
26 title of certain motor vehicles or vessels and in the
27 department's records; amending s. 319.24, F.S.;
28 prohibiting the department from issuing a motor
29 vehicle certificate of title under certain

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30 circumstances; specifying procedures for a judgment
31 lienholder to place a lien on motor vehicles or
32 vessels; revising requirements for the department if a
33 certificate of title is not forwarded or returned to
34 the department under certain circumstances; revising
35 the authority of certain persons to demand and receive
36 a lien satisfaction; requiring a lienholder to enter a
37 satisfaction in a certificate of title upon
38 satisfaction or lapse of a judgment lien; amending s.
39 319.241, F.S.; revising circumstances under which the
40 department may not remove a lien from the department's
41 records or a certificate of title; specifying a
42 requirement for the department; providing an effective
43 date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. This act may be cited as the "Judgment Lien
48 Improvement Act."

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

51 55.202 Judgments, orders, and decrees; lien on personal
52 property.—

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

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59 (a) For payment intangibles and accounts and the proceeds
60 thereof:

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

66 2. This section does not affect the obligation under s.
67 679.607(1) of an account debtor, as defined in s. 679.1021(1),
68 except as the rights and obligations under this paragraph are
69 otherwise adjudicated under applicable law in a legal proceeding
70 to which the secured party and account debtor are joined as
71 parties.

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

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

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

95 (e)~~(d)~~ Except as provided in s. 55.204(3), a judgment
96 creditor may file only one effective judgment lien certificate
97 based upon a particular judgment.

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

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

108 55.205 Effect of judgment lien.—

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

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117 (5) (a) If the judgment debtor's personal property, to the
118 extent not exempt from execution, includes a motor vehicle or a
119 vessel for which a Florida certificate of title has been issued,
120 a judgment lien acquired under this section on such property not
121 yet noted on the certificate of title is valid and enforceable
122 against the judgment debtor. However, such judgment lien is not
123 enforceable against creditors or subsequent purchasers of such
124 property for valuable consideration whose interests have been
125 noted on the certificate of title as provided in s. 319.27.

126 (b) A judgment lienholder may obtain an order instructing
127 the Department of Highway Safety and Motor Vehicles to note the
128 lien on the certificate of title through a court of competent
129 jurisdiction conducting proceedings supplementary to execution
130 under s. 56.29(6) (b) .

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

140 (7) Notwithstanding the attachment of a judgment lien
141 acquired under s. 55.202 to payment intangibles or accounts and
142 the proceeds thereof, the account debtor may, absent receipt of
143 notice under s. 679.607(1) (a) from a secured party, discharge
144 the account debtor's obligation to pay payment intangibles or
145 accounts or the proceeds thereof by paying the judgment debtor

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146 until, but not after, the account debtor is served by process
147 with a complaint or petition by the judgment creditor seeking
148 judicial relief with respect to the payment intangibles or
149 accounts. Thereafter, the account debtor may discharge the
150 account debtor's obligation to pay payment intangibles or
151 accounts or the proceeds thereof under this section only in
152 accordance with a final order or judgment issued in such
153 judicial process which complies with this section.

154 Section 4. Section 55.208, Florida Statutes, is amended to
155 read:

156 55.208 Effect of prior liens on payment intangibles and
157 accounts; effect of filed judgment lien on writs of execution
158 previously delivered to a sheriff.—

159 (1) A judgment lien under s. 55.202 existing before October
160 1, 2023, becomes enforceable and perfected as of October 1,
161 2023, as to payment intangibles and accounts and the proceeds
162 thereof of a judgment debtor under s. 55.202(2). Any security
163 interest or lien on payment intangibles or accounts and the
164 proceeds thereof of a judgment debtor which is enforceable and
165 perfected before October 1, 2023, continues to have the same
166 rights and priority as existed before October 1, 2023, and may
167 not be primed as to payment intangibles or accounts by a
168 judgment lien certificate filed before October 1, 2023 ~~Any lien~~
169 ~~created by a writ of execution which has been delivered to the~~
170 ~~sheriff of any county before October 1, 2001, remains in effect~~
171 ~~for 2 years thereafter as to any property of the judgment debtor~~
172 ~~located in that county before October 1, 2001, and remaining~~
173 ~~within that county after that date. As to any property of the~~
174 ~~judgment debtor brought into the county on or after October 1,~~

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175 ~~2001, such writs create no lien, inchoate or otherwise.~~

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

189 (3) If a judgment creditor who has delivered a writ of
190 execution to a sheriff in any county before October 1, 2001,
191 does not properly file a judgment lien certificate with the
192 Department of State by October 1, 2003, such writ is considered
193 to have been abandoned and to be of no effect after October 1,
194 2003.

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

197 55.209 Department of State; processing fees,
198 responsibilities.—

199 (1) Except for liens, assessments, warrants, or judgments
200 filed electronically as provided in s. 55.202(2)(c) ~~s.~~
201 ~~55.202(2)(b)~~, the Department of State shall collect the
202 following nonrefundable processing fees for all documents filed
203 in accordance with ss. 55.201-55.209:

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

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

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

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

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

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

217 56.29 Proceedings supplementary.—

218 (6)(a) The court may order any property of the judgment
219 debtor~~7~~ not exempt from execution~~7~~ or any property, debt, or
220 other obligation due to the judgment debtor, in the hands of or
221 under the control of any person subject to the Notice to Appear,
222 to be levied upon and applied toward the satisfaction of the
223 judgment debt. The court may enter any orders, judgments, or
224 writs required to carry out the purpose of this section,
225 including those orders necessary or proper to subject property
226 or property rights of any judgment debtor to execution, and
227 including entry of money judgments as provided in ss. 56.16-
228 56.19 against any person to whom a Notice to Appear has been
229 directed and over whom the court obtained personal jurisdiction
230 irrespective of whether such person has retained the property,
231 subject to applicable principles of equity, and in accordance
232 with chapters 76 and 77 and all applicable rules of civil

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233 procedure. Sections 56.16-56.20 apply to any order issued under
234 this subsection.

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

243 Section 7. Subsections (2) and (4) and paragraphs (a) and
244 (b) of subsection (5) of section 319.24, Florida Statutes, are
245 amended to read:

246 319.24 Issuance in duplicate; delivery; liens and
247 encumbrances.—

248 (2) A duly authorized person shall sign the original
249 certificate of title and each corrected certificate and, if
250 there are no liens or encumbrances on the motor vehicle or
251 mobile home, as shown in the records of the department or as
252 shown in the application, shall deliver the certificate to the
253 applicant or to another person as directed by the applicant or
254 person, agent, or attorney submitting such application. The
255 motor vehicle dealer license number must be submitted to the
256 department when a dealer applies for or receives a duplicate
257 title. The current odometer reading must be submitted on an
258 application for a duplicate title. If there are one or more
259 liens or encumbrances on the motor vehicle or mobile home, the
260 certificate shall be delivered by the department to the first
261 lienholder as shown by department records or to the owner as

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262 indicated in the notice of lien filed by the first lienholder
263 pursuant to s. 319.27. If the notice of lien filed by the first
264 lienholder indicates that the certificate should be delivered to
265 the first lienholder, the department shall deliver to the first
266 lienholder, along with the certificate, a form to be
267 subsequently used by the lienholder as a satisfaction. If the
268 notice of lien filed by the first lienholder directs the
269 certificate of title to be delivered to the owner, then, upon
270 delivery of the certificate of title by the department to the
271 owner, the department shall deliver to the first lienholder
272 confirmation of the receipt of the notice of lien and the date
273 the certificate of title was issued to the owner at the owner's
274 address shown on the notice of lien and a form to be
275 subsequently used by the lienholder as a satisfaction. If the
276 application for certificate shows the name of a first lienholder
277 different from the name of the first lienholder as shown by the
278 records of the department or if the application does not show
279 the name of a judgment lienholder as shown by the records of the
280 department, the certificate may ~~shall~~ not be issued to any
281 person until after all parties who appear to hold a lien and the
282 applicant for the certificate have been notified of the conflict
283 in writing by the department by certified mail. If the parties
284 do not amicably resolve the conflict within 10 days from the
285 date such notice was mailed, then the department shall serve
286 notice in writing by certified mail on all persons appearing to
287 hold liens on that particular vehicle, including the applicant
288 for the certificate, to show cause within 15 days from the date
289 the notice is mailed why it should not issue and deliver the
290 certificate to the person indicated in the notice of lien filed

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291 by the lienholder whose name appears in the application as the
292 first lienholder without showing any lien or liens as
293 outstanding other than those appearing in the application or
294 those which may have been filed subsequent to the filing of the
295 application for the certificate. If, within the 15-day period,
296 any person other than the lienholder shown in the application or
297 a party filing a subsequent lien, in answer to such notice to
298 show cause, appears in person or by a representative, or
299 responds in writing, and files a written statement under oath
300 that his or her lien on that particular vehicle is still
301 outstanding, the department shall not issue the certificate to
302 anyone until after such conflict has been settled by the lien
303 claimants involved or by a court of competent jurisdiction. If
304 the conflict is not settled amicably within 10 days of the final
305 date for filing an answer to the notice to show cause, the
306 complaining party shall have 10 days to obtain a ruling, or a
307 stay order, from a court of competent jurisdiction; if no ruling
308 or stay order is issued and served on the department within the
309 10-day period, it shall issue the certificate showing no liens
310 except those shown in the application or thereafter filed to the
311 original applicant if there are no liens shown in the
312 application and none are thereafter filed, or to the person
313 indicated in the notice of lien filed by the lienholder whose
314 name appears in the application as the first lienholder if there
315 are liens shown in the application or thereafter filed. A
316 duplicate certificate or corrected certificate shall only show
317 such lien or liens as were shown in the application and
318 subsequently filed liens that may be outstanding.

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

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

330 2. If the holder of a judgment lien acquired under s.
331 55.202(2) on personal property of the owner desires to place a
332 lien on the motor vehicle or a vessel, the judgment lienholder
333 must send a written request to the department together with a
334 copy of the lienholder's judgment lien certificate. The
335 department shall add the name of the judgment lienholder to the
336 records of the department. The judgment lienholder must also
337 send a written request to the person in possession of the title
338 certificate by certified mail, and that person shall forward the
339 certificate to the department for endorsement.

340 (b) The department shall return the certificate to either
341 the first lienholder or to the owner, as indicated in the notice
342 of lien filed by the first lienholder, after endorsing the
343 second or subsequent lien on the certificate and on the
344 duplicate. If the first lienholder or owner fails, neglects, or
345 refuses to forward the certificate of title to the department
346 within 10 days after ~~from~~ the date of the owner's, the judgment
347 lienholder's, or the director's or designee's request, the
348 department, on the written request of the subsequent lienholder

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349 or an assignee thereof, shall demand of the first lienholder or
350 the owner the return of such certificate for the notation of the
351 second or subsequent lien or encumbrance. If the first
352 lienholder or owner fails, neglects, or refuses to return the
353 certificate to the department as requested, the department must
354 void the certificate of title and issue a replacement
355 certificate showing the notation of the subsequent lien or
356 encumbrance.

357 (5) (a) Upon satisfaction of any first lien, judgment lien,
358 or encumbrance recorded at the department or upon lapse of a
359 judgment lien, the owner of the motor vehicle or mobile home, as
360 shown on the title certificate, or the person satisfying the
361 lien ~~is shall be~~ entitled to demand and receive from the
362 lienholder a satisfaction of the lien. If the lienholder, upon
363 satisfaction of the lien and upon demand, fails or refuses to
364 furnish a satisfaction thereof within 30 days after demand, he
365 or she shall be held liable for all costs, damages, and
366 expenses, including reasonable attorney ~~attorney's~~ fees,
367 lawfully incurred by the titled owner or person satisfying the
368 lien in any suit brought in this state for cancellation of the
369 lien. A motor vehicle dealer acquiring ownership of a motor
370 vehicle with an outstanding purchase money lien, shall pay and
371 satisfy the outstanding lien within 10 working days of acquiring
372 ownership. The lienholder receiving final payment as defined in
373 s. 674.215 shall mail or otherwise deliver a lien satisfaction
374 and the certificate of title indicating the satisfaction within
375 10 working days of receipt of such final payment or notify the
376 person satisfying the lien that the title is not available
377 within 10 working days of receipt of such final payment. If the

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378 lienholder is unable to provide the certificate of title and
379 notifies the person of such, the lienholder shall provide a lien
380 satisfaction and shall be responsible for the cost of a
381 duplicate title, including fast title charges as provided in s.
382 319.323. The provisions of this paragraph shall not apply to
383 electronic transactions pursuant to subsection (9).

384 (b) Following satisfaction of a lien or upon satisfaction
385 or lapse of a judgment lien, the lienholder shall enter a
386 satisfaction thereof in the space provided on the face of the
387 certificate of title. If the certificate of title was retained
388 by the owner, the owner shall, within 5 days of the satisfaction
389 of a lien, deliver the certificate of title to the lienholder
390 and the lienholder shall enter a satisfaction thereof in the
391 space provided on the face of the certificate of title. If there
392 are no subsequent liens shown thereon, the certificate shall be
393 delivered by the lienholder to the person satisfying the lien or
394 encumbrance and an executed satisfaction on a form provided by
395 the department shall be forwarded to the department by the
396 lienholder within 10 days of satisfaction of the lien.

397 Section 8. Section 319.241, Florida Statutes, is amended to
398 read:

399 319.241 Removal of lien from records.—The owner of a motor
400 vehicle or mobile home upon which a lien has been filed with the
401 department or noted upon a certificate of title for a period of
402 5 years may apply to the department in writing for such lien to
403 be removed from the department files or from the certificate of
404 title. The application shall be accompanied by evidence
405 satisfactory to the department that the applicant has notified
406 the lienholder by certified mail, not less than 20 days prior to

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407 the date of the application, of his or her intention to apply to
408 the department for removal of the lien. Ten days after receipt
409 of the application, the department may remove the lien from its
410 files or from the certificate of title, as the case may be, if
411 no statement in writing protesting removal of the lien is
412 received by the department from the lienholder within the 10-day
413 period. If, however, the lienholder files with the department
414 within the 10-day period a written statement that the lien is
415 still outstanding or that a second judgment lien certificate has
416 been filed with the Department of State, the department shall
417 not remove the lien until the lienholder presents a satisfaction
418 of lien to the department. If a second judgment lien certificate
419 was filed with the Department of State, the department must
420 remove the notice of the first judgment lien certificate and add
421 notation of the second judgment lien certificate at the end of
422 all noted liens. Ten days after the receipt of an application
423 for a derelict motor vehicle certificate and notification to the
424 lienholder, the department may remove the lien from the derelict
425 motor vehicle record if a written statement protesting removal
426 of the lien is not received by the department from the
427 lienholder within the 10-day period.

428 Section 9. This act shall take effect July 1, 2023.