

By the Committee on Judiciary; and 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, enforceability under this
123 chapter of such judgment lien against creditors or subsequent
124 purchasers is determined as provided under s. 319.27(2) or s.
125 328.14, as applicable.

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 s. 55.202, who
137 is not enforcing separate lien rights in a judgment debtor's
138 property, may not enforce his or her rights under this section
139 through self-help repossession or replevin without a court order
140 or without the express consent of the judgment debtor contained
141 in a record authenticated in accordance with s. 668.50 or s.
142 679.1021(1) (g) after the judgment lien attaches.

143 (7) Notwithstanding the attachment of a judgment lien
144 acquired under s. 55.202 to payment intangibles or accounts and
145 the proceeds thereof, the account debtor may, absent receipt of

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146 notice under s. 679.607(1)(a) from a secured party, discharge
147 the account debtor's obligation to pay payment intangibles or
148 accounts or the proceeds thereof by paying the judgment debtor
149 until, but not after, the account debtor is served by process
150 with a complaint or petition by the judgment creditor seeking
151 judicial relief with respect to the payment intangibles or
152 accounts. Thereafter, the account debtor may discharge the
153 account debtor's obligation to pay payment intangibles or
154 accounts or the proceeds thereof under this section only in
155 accordance with a final order or judgment issued in such
156 judicial process which complies with this section.

157 Section 4. Section 55.208, Florida Statutes, is amended to
158 read:

159 55.208 Effect of prior liens on payment intangibles and
160 accounts; effect of filed judgment lien on writs of execution
161 previously delivered to a sheriff.—

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

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175 ~~located in that county before October 1, 2001, and remaining~~
176 ~~within that county after that date. As to any property of the~~
177 ~~judgment debtor brought into the county on or after October 1,~~
178 ~~2001, such writs create no lien, inchoate or otherwise.~~

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

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

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

200 55.209 Department of State; processing fees,
201 responsibilities.-

202 (1) Except for liens, assessments, warrants, or judgments
203 filed electronically as provided in s. 55.202(2)(c) ~~s.~~

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204 ~~55.202(2)(b)~~, the Department of State shall collect the
205 following nonrefundable processing fees for all documents filed
206 in accordance with ss. 55.201-55.209:

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

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

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

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

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

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

220 56.29 Proceedings supplementary.-

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

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233 irrespective of whether such person has retained the property,
234 subject to applicable principles of equity, and in accordance
235 with chapters 76 and 77 and all applicable rules of civil
236 procedure. Sections 56.16-56.20 apply to any order issued under
237 this subsection.

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

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

249 319.24 Issuance in duplicate; delivery; liens and
250 encumbrances.—

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

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

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

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320 such lien or liens as were shown in the application and
321 subsequently filed liens that may be outstanding.

322 (4) (a)1. If the owner of the motor vehicle or mobile home,
323 as shown on the title certificate, or the director of the state
324 child support enforcement program, or the director's designee,
325 desires to place a second or subsequent lien or encumbrance
326 against the motor vehicle or mobile home when the title
327 certificate is in the possession of the first lienholder, the
328 owner shall send a written request to the first lienholder by
329 certified mail, and such first lienholder shall forward the
330 certificate to the department for endorsement. If the title
331 certificate is in the possession of the owner, the owner shall
332 forward the certificate to the department for endorsement.

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

343 (b) The department shall return the certificate to either
344 the first lienholder or to the owner, as indicated in the notice
345 of lien filed by the first lienholder, after endorsing the
346 second or subsequent lien on the certificate and on the
347 duplicate. If the first lienholder or owner fails, neglects, or
348 refuses to forward the certificate of title to the department

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

360 (5) (a) Upon satisfaction of any first lien, judgment lien,
361 or encumbrance recorded at the department or upon lapse of a
362 judgment lien, the owner of the motor vehicle or mobile home, as
363 shown on the title certificate, or the person satisfying the
364 lien is ~~shall be~~ entitled to demand and receive from the
365 lienholder a satisfaction of the lien. If the lienholder, upon
366 satisfaction of the lien and upon demand, fails or refuses to
367 furnish a satisfaction thereof within 30 days after demand, he
368 or she shall be held liable for all costs, damages, and
369 expenses, including reasonable attorney ~~attorney's~~ fees,
370 lawfully incurred by the titled owner or person satisfying the
371 lien in any suit brought in this state for cancellation of the
372 lien. A motor vehicle dealer acquiring ownership of a motor
373 vehicle with an outstanding purchase money lien, shall pay and
374 satisfy the outstanding lien within 10 working days of acquiring
375 ownership. The lienholder receiving final payment as defined in
376 s. 674.215 shall mail or otherwise deliver a lien satisfaction
377 and the certificate of title indicating the satisfaction within

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378 10 working days of receipt of such final payment or notify the
379 person satisfying the lien that the title is not available
380 within 10 working days of receipt of such final payment. If the
381 lienholder is unable to provide the certificate of title and
382 notifies the person of such, the lienholder shall provide a lien
383 satisfaction and shall be responsible for the cost of a
384 duplicate title, including fast title charges as provided in s.
385 319.323. The provisions of this paragraph shall not apply to
386 electronic transactions pursuant to subsection (9).

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

400 Section 8. Section 319.241, Florida Statutes, is amended to
401 read:

402 319.241 Removal of lien from records.—The owner of a motor
403 vehicle or mobile home upon which a lien has been filed with the
404 department or noted upon a certificate of title for a period of
405 5 years may apply to the department in writing for such lien to
406 be removed from the department files or from the certificate of

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407 title. The application shall be accompanied by evidence
408 satisfactory to the department that the applicant has notified
409 the lienholder by certified mail, not less than 20 days prior to
410 the date of the application, of his or her intention to apply to
411 the department for removal of the lien. Ten days after receipt
412 of the application, the department may remove the lien from its
413 files or from the certificate of title, as the case may be, if
414 no statement in writing protesting removal of the lien is
415 received by the department from the lienholder within the 10-day
416 period. If, however, the lienholder files with the department
417 within the 10-day period a written statement that the lien is
418 still outstanding or that a second judgment lien certificate has
419 been filed with the Department of State, the department shall
420 not remove the lien until the lienholder presents a satisfaction
421 of lien to the department. If a second judgment lien certificate
422 was filed with the Department of State, the department must
423 remove the notice of the first judgment lien certificate and add
424 notation of the second judgment lien certificate at the end of
425 all noted liens. Ten days after the receipt of an application
426 for a derelict motor vehicle certificate and notification to the
427 lienholder, the department may remove the lien from the derelict
428 motor vehicle record if a written statement protesting removal
429 of the lien is not received by the department from the
430 lienholder within the 10-day period.

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