

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

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

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

50
51 Section 1. This act may be cited as the "Judgment Lien
52 Improvement Act."

53 Section 2. Subsections (2), (3), and (5) of section 55.202,
54 Florida Statutes, are amended to read:

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

57 (2) A judgment lien may be acquired on a judgment debtor's
58 interest in all personal property in this state subject to

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59 execution under s. 56.061, including payment intangibles and
60 accounts, as those terms are defined in s. 679.1021(1), and the
61 proceeds thereof, but excluding ~~other than~~ fixtures, money,
62 negotiable instruments, 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

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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 (3) Except as otherwise provided in s. 55.208, the priority
103 of a judgment lien acquired in accordance with this section or
104 s. 55.204(3) is established at the date and time the judgment
105 lien certificate is filed. The priority of conflicting rights
106 between a judgment lienholder under this section and a secured
107 party as defined in s. 679.1021(1) must be determined as
108 provided under chapter 679.

109 (5) Liens, assessments, warrants, or judgments filed
110 pursuant to paragraph (2)(c) ~~(2)(b)~~ may be filed directly into
111 the central database by the Department of Revenue, or its
112 designee as determined by its executive director, through
113 electronic or information data exchange programs approved by the
114 Department of State. Such filings must contain the information
115 set forth in s. 55.203(1).

116 Section 3. Subsection (1) of section 55.205, Florida

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117 Statutes, is amended, and subsections (5), (6), and (7) are
118 added to that section, to read:

119 55.205 Effect of judgment lien.—

120 (1) A judgment creditor who has not acquired a judgment
121 lien as provided in s. 55.202 or whose lien has lapsed may
122 nevertheless proceed against the judgment debtor's property
123 through any appropriate judicial process, subject to the
124 priority of conflicting rights under chapter 679 of a secured
125 party as defined in s. 679.1021(1). Such judgment creditor
126 proceeding by writ of execution acquires a lien as of the time
127 of levy and only on the property levied upon. ~~Except as provided~~
128 ~~in s. 55.208, such judgment creditor takes subject to the claims~~
129 ~~and interest of priority judgment creditors.~~

130 (5) (a) If the judgment debtor's personal property, to the
131 extent not exempt from execution, includes a motor vehicle or a
132 vessel for which a Florida certificate of title has been issued,
133 a judgment lien acquired under this section on such property not
134 yet noted on the certificate of title is valid and enforceable
135 against the judgment debtor. However, enforceability under this
136 chapter of such judgment lien against creditors or subsequent
137 purchasers is determined as provided under s. 319.27(2) or s.
138 328.14 or chapter 679, as applicable.

139 (b) A judgment lienholder may obtain an order instructing
140 the Department of Highway Safety and Motor Vehicles to note the
141 lien on the certificate of title through a court of competent
142 jurisdiction conducting proceedings supplementary to execution
143 under s. 56.29(6) (b).

144 (6) A judgment lien acquired under s. 55.202 may be
145 enforced only through judicial process, including attachment

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146 under chapter 76; execution under chapter 56; garnishment under
147 chapter 77; a charging order under s. 605.0503, s. 620.1703, or
148 s. 620.8504; or proceedings supplementary to execution under s.
149 56.29. A holder of a judgment lien acquired under s. 55.202, who
150 is not enforcing separate lien rights in a judgment debtor's
151 property, may not enforce his or her rights under this section
152 through self-help repossession or replevin without a court order
153 or without the express consent of the judgment debtor contained
154 in a record authenticated in accordance with s. 668.50 or s.
155 679.1021(1)(g) after the judgment lien attaches.

156 (7) Notwithstanding the attachment of a judgment lien
157 acquired under s. 55.202 to payment intangibles or accounts and
158 the proceeds thereof, the account debtor may, absent receipt of
159 notice under s. 679.607(1)(a) from a secured party, discharge
160 the account debtor's obligation to pay payment intangibles or
161 accounts or the proceeds thereof by paying the judgment debtor
162 until, but not after, the account debtor is served by process
163 with a complaint or petition by the judgment creditor seeking
164 judicial relief with respect to the payment intangibles or
165 accounts. Thereafter, the account debtor may discharge the
166 account debtor's obligation to pay payment intangibles or
167 accounts or the proceeds thereof under this section only in
168 accordance with a settlement agreement, final order, or judgment
169 issued in such judicial process which complies with this
170 section.

171 Section 4. Section 55.208, Florida Statutes, is amended to
172 read:

173 55.208 Effect of prior liens on payment intangibles and
174 accounts; effect of filed judgment lien on writs of execution

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175 previously delivered to a sheriff.-

176 (1) A judgment lien under s. 55.202 existing before October
177 1, 2023, becomes enforceable and perfected as of October 1,
178 2023, as to payment intangibles and accounts and the proceeds
179 thereof of a judgment debtor under s. 55.202(2). Any security
180 interest or lien on payment intangibles or accounts and the
181 proceeds thereof of a judgment debtor which is enforceable and
182 perfected before October 1, 2023, continues to have the same
183 rights and priority as existed before October 1, 2023, and may
184 not take priority over payment intangibles or accounts by a
185 judgment lien certificate filed before October 1, 2023 ~~Any lien~~
186 ~~created by a writ of execution which has been delivered to the~~
187 ~~sheriff of any county before October 1, 2001, remains in effect~~
188 ~~for 2 years thereafter as to any property of the judgment debtor~~
189 ~~located in that county before October 1, 2001, and remaining~~
190 ~~within that county after that date. As to any property of the~~
191 ~~judgment debtor brought into the county on or after October 1,~~
192 ~~2001, such writs create no lien, inchoate or otherwise.~~

193 (2) If a judgment creditor who has delivered a writ of
194 execution to a sheriff in any county prior to October 1, 2001,
195 properly files a judgment lien certificate with the Department
196 of State by October 1, 2003, the resulting judgment lien is
197 deemed filed on the date the writ was delivered to the sheriff
198 as to all property of the judgment debtor subject to execution
199 in this state under s. 56.061 which is located in that county on
200 October 1, 2001, and that remains continuously in that county
201 thereafter. Priority of such judgment liens is determined as of
202 the effective date they are considered to have been filed. As to
203 all other property of the judgment debtor, the effective date of

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204 the judgment lien is as provided in s. 55.202. The duration of
205 all judgment liens is as provided in s. 55.204.

206 (3) If a judgment creditor who has delivered a writ of
207 execution to a sheriff in any county before October 1, 2001,
208 does not properly file a judgment lien certificate with the
209 Department of State by October 1, 2003, such writ is considered
210 to have been abandoned and to be of no effect after October 1,
211 2003.

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

214 55.209 Department of State; processing fees,
215 responsibilities.—

216 (1) Except for liens, assessments, warrants, or judgments
217 filed electronically as provided in s. 55.202(2)(c) ~~s.~~
218 ~~55.202(2)(b)~~, the Department of State shall collect the
219 following nonrefundable processing fees for all documents filed
220 in accordance with ss. 55.201-55.209:

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

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

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

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

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

232 Section 6. Subsection (6) of section 56.29, Florida

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233 Statutes, is amended to read:

234 56.29 Proceedings supplementary.—

235 (6) (a) The court may order any property of the judgment
236 debtor, ~~not exempt from execution,~~ or any property, debt, or
237 other obligation due to the judgment debtor, in the hands of or
238 under the control of any person subject to the Notice to Appear,
239 to be levied upon and applied toward the satisfaction of the
240 judgment debt. The court may enter any orders, judgments, or
241 writs required to carry out the purpose of this section,
242 including those orders necessary or proper to subject property
243 or property rights of any judgment debtor to execution, and
244 including entry of money judgments as provided in ss. 56.16-
245 56.19 against any person to whom a Notice to Appear has been
246 directed and over whom the court obtained personal jurisdiction
247 irrespective of whether such person has retained the property,
248 subject to applicable principles of equity, and in accordance
249 with chapters 76 and 77 and all applicable rules of civil
250 procedure. Sections 56.16-56.20 apply to any order issued under
251 this subsection.

252 (b) If the personal property of the judgment debtor
253 includes a motor vehicle or a vessel that is nonexempt to any
254 extent from execution and for which a Florida certificate of
255 title has been issued, upon presentation of a copy of a valid
256 judgment lien certificate acquired under s. 55.202, the court
257 must order the Department of Highway Safety and Motor Vehicles
258 to note the lien or liens of the judgment creditor on the
259 certificate of title and in the records of the department.

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

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262 amended to read:

263 319.24 Issuance in duplicate; delivery; liens and
264 encumbrances.—

265 (2) A duly authorized person shall sign the original
266 certificate of title and each corrected certificate and, if
267 there are no liens or encumbrances on the motor vehicle or
268 mobile home, as shown in the records of the department or as
269 shown in the application, shall deliver the certificate to the
270 applicant or to another person as directed by the applicant or
271 person, agent, or attorney submitting such application. The
272 motor vehicle dealer license number must be submitted to the
273 department when a dealer applies for or receives a duplicate
274 title. The current odometer reading must be submitted on an
275 application for a duplicate title. If there are one or more
276 liens or encumbrances on the motor vehicle or mobile home, the
277 certificate shall be delivered by the department to the first
278 lienholder as shown by department records or to the owner as
279 indicated in the notice of lien filed by the first lienholder
280 pursuant to s. 319.27. If the notice of lien filed by the first
281 lienholder indicates that the certificate should be delivered to
282 the first lienholder, the department shall deliver to the first
283 lienholder, along with the certificate, a form to be
284 subsequently used by the lienholder as a satisfaction. If the
285 notice of lien filed by the first lienholder directs the
286 certificate of title to be delivered to the owner, then, upon
287 delivery of the certificate of title by the department to the
288 owner, the department shall deliver to the first lienholder
289 confirmation of the receipt of the notice of lien and the date
290 the certificate of title was issued to the owner at the owner's

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291 address shown on the notice of lien and a form to be
292 subsequently used by the lienholder as a satisfaction. If the
293 application for certificate shows the name of a first lienholder
294 different from the name of the first lienholder as shown by the
295 records of the department or if the application does not show
296 the name of a judgment lienholder as shown by the records of the
297 department, the certificate may ~~shall~~ not be issued to any
298 person until after all parties who appear to hold a lien and the
299 applicant for the certificate have been notified of the conflict
300 in writing by the department by certified mail. If the parties
301 do not amicably resolve the conflict within 10 days from the
302 date such notice was mailed, then the department shall serve
303 notice in writing by certified mail on all persons appearing to
304 hold liens on that particular vehicle, including the applicant
305 for the certificate, to show cause within 15 days from the date
306 the notice is mailed why it should not issue and deliver the
307 certificate to the person indicated in the notice of lien filed
308 by the lienholder whose name appears in the application as the
309 first lienholder without showing any lien or liens as
310 outstanding other than those appearing in the application or
311 those which may have been filed subsequent to the filing of the
312 application for the certificate. If, within the 15-day period,
313 any person other than the lienholder shown in the application or
314 a party filing a subsequent lien, in answer to such notice to
315 show cause, appears in person or by a representative, or
316 responds in writing, and files a written statement under oath
317 that his or her lien on that particular vehicle is still
318 outstanding, the department shall not issue the certificate to
319 anyone until after such conflict has been settled by the lien

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320 claimants involved or by a court of competent jurisdiction. If
321 the conflict is not settled amicably within 10 days of the final
322 date for filing an answer to the notice to show cause, the
323 complaining party shall have 10 days to obtain a ruling, or a
324 stay order, from a court of competent jurisdiction; if no ruling
325 or stay order is issued and served on the department within the
326 10-day period, it shall issue the certificate showing no liens
327 except those shown in the application or thereafter filed to the
328 original applicant if there are no liens shown in the
329 application and none are thereafter filed, or to the person
330 indicated in the notice of lien filed by the lienholder whose
331 name appears in the application as the first lienholder if there
332 are liens shown in the application or thereafter filed. A
333 duplicate certificate or corrected certificate shall only show
334 such lien or liens as were shown in the application and
335 subsequently filed liens that may be outstanding.

336 (4) (a)1. If the owner of the motor vehicle or mobile home,
337 as shown on the title certificate, or the director of the state
338 child support enforcement program, or the director's designee,
339 desires to place a second or subsequent lien or encumbrance
340 against the motor vehicle or mobile home when the title
341 certificate is in the possession of the first lienholder, the
342 owner shall send a written request to the first lienholder by
343 certified mail, and such first lienholder shall forward the
344 certificate to the department for endorsement. If the title
345 certificate is in the possession of the owner, the owner shall
346 forward the certificate to the department for endorsement.

347 2. If the holder of a judgment lien acquired under s.
348 55.202(2) on personal property of the owner desires to place a

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349 lien on the motor vehicle or a vessel, the judgment lienholder
350 must send a written request to the department together with a
351 copy of the lienholder's judgment lien certificate. The
352 department shall add the name of the judgment lienholder to the
353 records of the department. The judgment lienholder must also
354 send a written request to the person in possession of the title
355 certificate by certified mail, and that person shall forward the
356 certificate to the department for endorsement.

357 (b) The department shall return the certificate to either
358 the first lienholder or to the owner, as indicated in the notice
359 of lien filed by the first lienholder, after endorsing the
360 second or subsequent lien on the certificate and on the
361 duplicate. If the first lienholder or owner fails, neglects, or
362 refuses to forward the certificate of title to the department
363 within 10 days after ~~from~~ the date of the owner's, the judgment
364 lienholder's, or the director's or designee's request, the
365 department, on the written request of the subsequent lienholder
366 or an assignee thereof, shall demand of the first lienholder or
367 the owner the return of such certificate for the notation of the
368 second or subsequent lien or encumbrance. If the first
369 lienholder or owner fails, neglects, or refuses to return the
370 certificate to the department as requested, the department must
371 void the certificate of title and issue a replacement
372 certificate showing the notation of the subsequent lien or
373 encumbrance.

374 (5) (a) Upon satisfaction of any first lien, judgment lien,
375 or encumbrance recorded at the department or upon lapse of a
376 judgment lien, the owner of the motor vehicle or mobile home, as
377 shown on the title certificate, or the person satisfying the

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378 lien ~~is shall be~~ entitled to demand and receive from the
379 lienholder a satisfaction of the lien. If the lienholder, upon
380 satisfaction of the lien and upon demand, fails or refuses to
381 furnish a satisfaction thereof within 30 days after demand, he
382 or she shall be held liable for all costs, damages, and
383 expenses, including reasonable attorney ~~attorney's~~ fees,
384 lawfully incurred by the titled owner or person satisfying the
385 lien in any suit brought in this state for cancellation of the
386 lien. A motor vehicle dealer acquiring ownership of a motor
387 vehicle with an outstanding purchase money lien, shall pay and
388 satisfy the outstanding lien within 10 working days of acquiring
389 ownership. The lienholder receiving final payment as defined in
390 s. 674.215 shall mail or otherwise deliver a lien satisfaction
391 and the certificate of title indicating the satisfaction within
392 10 working days of receipt of such final payment or notify the
393 person satisfying the lien that the title is not available
394 within 10 working days of receipt of such final payment. If the
395 lienholder is unable to provide the certificate of title and
396 notifies the person of such, the lienholder shall provide a lien
397 satisfaction and shall be responsible for the cost of a
398 duplicate title, including fast title charges as provided in s.
399 319.323. The provisions of this paragraph shall not apply to
400 electronic transactions pursuant to subsection (9).

401 (b) Following satisfaction of a lien or upon satisfaction
402 or lapse of a judgment lien, the lienholder shall enter a
403 satisfaction thereof in the space provided on the face of the
404 certificate of title. If the certificate of title was retained
405 by the owner, the owner shall, within 5 days of the satisfaction
406 of a lien, deliver the certificate of title to the lienholder

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407 and the lienholder shall enter a satisfaction thereof in the
408 space provided on the face of the certificate of title. If there
409 are no subsequent liens shown thereon, the certificate shall be
410 delivered by the lienholder to the person satisfying the lien or
411 encumbrance and an executed satisfaction on a form provided by
412 the department shall be forwarded to the department by the
413 lienholder within 10 days of satisfaction of the lien.

414 Section 8. Section 319.241, Florida Statutes, is amended to
415 read:

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

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436 was filed with the Department of State, the department must
437 remove the notice of the first judgment lien certificate and add
438 notation of the second judgment lien certificate at the end of
439 all noted liens. Ten days after the receipt of an application
440 for a derelict motor vehicle certificate and notification to the
441 lienholder, the department may remove the lien from the derelict
442 motor vehicle record if a written statement protesting removal
443 of the lien is not received by the department from the
444 lienholder within the 10-day period.

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