

Representative Margaret Dayton proposes to substitute the following bill:

FILING WRONGFUL LIENS OR JUDGEMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Margaret Dayton

This act ~~§ [raises the penalty for refusing to correct a wrongful lien and]~~ § provides a cross reference to the wrongful lien statute for guidance in correcting a wrongful lien or judgment lien.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

§ [~~38-9-4, as repealed and reenacted by Chapter 125, Laws of Utah 1997~~] §

78-22-1.5, as last amended by Chapter 327, Laws of Utah 1998

Be it enacted by the Legislature of the state of Utah:

§ [~~Section 1. Section 38-9-4 is amended to read:~~

~~38-9-4. Civil liability for filing wrongful lien -- Damages:~~

~~(1) A lien claimant who records or files or causes a wrongful lien as defined in Section 38-9-1 to be recorded or filed in the office of the county recorder against real property is liable to a record interest holder for any actual damages proximately caused by the wrongful lien.~~

~~(2) If the person in violation of this Subsection (1) refuses to release or correct the wrongful lien within 20 days from the date of written request from a record interest holder of the real property delivered [personally or mailed] § [by certified mail, return receipt requested,]~~

~~PERSONALLY, MAILED, OR MAILED ELECTRONICALLY~~ § to the

last-known address of the lien claimant, the person is liable to that record interest holder for § [] \$1,000 [] [\$5,000] § or for treble actual damages, whichever is greater, and for reasonable attorney fees

and costs.

~~(3) A person is liable to the record owner of real property for § [] \$3,000 [] [\$10,000] § or for~~

treble actual damages, whichever is greater, and for reasonable attorney fees and costs, who] §

§ [



26 § ~~[records or files or causes to be recorded or filed a wrongful lien as defined in Section 38-9-1 in the~~
27 ~~office of the county recorder against the real property, knowing or having reason to know that the~~
28 ~~document:~~

29 ~~—— (a) is a wrongful lien;~~

30 ~~—— (b) is groundless; or~~

31 ~~—— (c) contains a material misstatement or false claim.] §~~

32 Section 2. Section 78-22-1.5 is amended to read:

33 **78-22-1.5. Definitions -- Judgment recorded in Registry of Judgments.**

34 (1) For purposes of this section, "Registry of Judgments" means the index where a
35 judgment shall be recorded and searchable by the name of the judgment debtor through electronic
36 means or by tangible document.

37 (2) On or after July 1, 1997, a judgment rendered or recorded in a district court does not
38 create a lien upon or affect the title to real property unless the judgment is recorded in the Registry
39 of Judgments of the office of the clerk of the district court of the county in which the property is
40 located.

41 (3) In addition to the requirement of Subsection (2), any judgment that is recorded in the
42 Registry of Judgments on or after September 1, 1998, shall include a separate information
43 statement of the judgment creditor that contains:

44 (a) the correct name and last-known address of each judgment debtor and the address at
45 which each judgment debtor received service of process;

46 (b) the name and address of the judgment creditor;

47 (c) the amount of the judgment as entered in the Registry of Judgments;

48 (d) if known, the judgment debtor's social security number, date of birth, and driver's
49 license number if a natural person; and

50 (e) whether or not a stay of enforcement has been ordered by the court and the date the stay
51 expires.

52 (4) For the information required in Subsection (3), the judgment creditor shall:

53 (a) provide the information on the separate information statement if known or available
54 to the judgment creditor from its records, its attorney's records, or the court records in the action
55 in which the judgement was entered; or

56 (b) state on the separate information statement that the information is unknown or

57 unavailable.

58 (5) (a) Any judgment that requires payment of money and is recorded on or after
59 September 1, 1998, and is not accompanied by the separate information statement as required in
60 Subsections (3) and (4) may be amended by recording a document entitled "Amendment to
61 Recorded Judgment" in the Registry of Judgments in compliance with Subsections (3) and (4).

62 (b) The amendment to the recorded judgment shall state the date of recording the original
63 judgment in the Registry of Judgments.

64 (c) Recording an amendment to a recorded judgment has no effect on the computation of
65 time as provided in Section 78-22-1.

66 (6) A judgment that requires payment of money recorded on or after September 1, 1998,
67 has as its priority the date of compliance with Subsections (3) and (4) § EXCEPT AS TO PARTIES
67a WITH ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF THE JUDGMENT § .

68 (7) A judgment § OR NOTICE OF JUDGMENT § wrongfully § [entered under this section]
68a FILED AGAINST REAL PROPERTY § is subject to Title 38, Chapter 9,
69 Wrongful Liens.