

JUDGMENT LIEN AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

This act modifies provisions of the Utah Code related to judgment liens. The act provides that a judgment, an abstract of a judgment, or an abstract of a final administrative order constitutes a lien when it is recorded in the office of the county recorder. The act outlines requirements for documents presented for recording in the office of the county recorder. The act designates the duration of a judgment recorded in the office of the county recorder. The act requires that a judgment recorded in the office of the county recorder that becomes a lien on the real property of a judgment debtor shall be entered in the appropriate index in the office of the county recorder. The act modifies provisions related to the registration of judgments in the Registry of Judgments. The act modifies provisions related to foreign judgment liens. The act also makes technical corrections. This act provides an effective date.

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

AMENDS:

21-7-2, as last amended by Chapter 181, Laws of Utah 1991

38-5-1, as last amended by Chapter 85, Laws of Utah 1971

38-7-2, as last amended by Chapter 167, Laws of Utah 1996

57-3-106, as last amended by Chapter 320, Laws of Utah 2000

62A-11-207, as last amended by Chapter 198, Laws of Utah 1996

78-5-119, as enacted by Chapter 157, Laws of Utah 1989

78-22-1, as last amended by Chapter 161, Laws of Utah 2000

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

78-22a-5, as last amended by Chapter 172, Laws of Utah 1986

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



28 Section 1. Section 21-7-2 is amended to read:

29 **21-7-2. Payment of fees prerequisite to service -- Exception.**

30 (1) (a) The state and county officers mentioned in this title may not perform any official
31 service unless the fees prescribed for that service are paid in advance.

32 (b) When the fee is paid, the officer shall perform the services required.

33 (c) An officer is liable upon ~~[his]~~ an officer's official bond for every failure or refusal to
34 perform an official duty when the fees are tendered.

35 (2) Except as provided for payment of ~~[filing]~~ recording fees ~~[of]~~ for county and municipal
36 improvement district ~~[filings]~~ recordings in compliance with Sections 17A-3-207 and 17A-3-307,
37 and as provided for payment of recording fees for judgments recorded in compliance with Sections
38 57-3-106 and 78-5-119, no fees may be charged:

- 39 (a) to the officer's state, or any county or subdivision of the state;
- 40 (b) to any public officer acting for the state, county, or subdivision;
- 41 (c) in cases of habeas corpus;
- 42 (d) in criminal causes before final judgment;
- 43 (e) for administering and certifying the oath of office;
- 44 (f) for swearing pensioners and their witnesses; or
- 45 (g) for filing and recording bonds of public officers.

46 Section 2. Section 38-5-1 is amended to read:

47 **38-5-1. Registering with clerk of district court -- Recording with county recorder**
48 **-- Effect.**

49 (1) Transcripts of judgments or decrees rendered in the district court of the United States
50 within the state ~~[of Utah]~~ may be ~~[filed and docketed]~~ registered in the office of the clerk of the
51 state district court of any county in this state~~[-, and when so filed and docketed, such judgments or~~
52 ~~decrees shall have the same force and effect as a lien as judgments rendered and docketed in a~~
53 ~~district court of this state in and for such county].~~

54 (2) If a judgment or an abstract of judgment or decree under Subsection (1) is recorded in
55 the office of the county recorder in which land of a judgment debtor is located, that judgment or
56 decree becomes a lien on the land of the judgment debtor.

57 Section 3. Section 38-7-2 is amended to read:

58 **38-7-2. Notice of lien required -- Registering with district court -- Recording with**

59 **county recorder -- Mailing to injured person, heirs or legal representative, and insurance**
 60 **carrier.**

61 A hospital lien upon damages recovered or to be recovered for personal injuries or death
 62 ~~[shall be]~~ is effective if:

63 (1) a verified written notice is ~~[filed]~~ registered in the district court of the county in which
 64 the hospital asserting the lien is located and a judgment or an abstract of judgment is recorded with
 65 the county recorder as required in Sections 57-3-106 and 78-5-119 containing:

66 (a) an itemized statement of the services rendered to the injured person and the dates of
 67 the services;

68 (b) the name and address of the hospital making the claim;

69 (c) the name of the person, firm, or corporation alleged to be liable to the injured party for
 70 the injuries and damages sustained; and

71 (d) the full name and address of the injured person;

72 (2) the hospital sends by certified mail with return receipt requested, prior to the payment
 73 of any money to the injured person or ~~[his]~~ the injured person's attorney ~~[or]~~, heirs, or legal
 74 representatives as compensation for the injuries ~~[and/or]~~ or damages, or both, sustained, a copy of
 75 the written notice, together with a statement of the date of filing, to the person, firm, or corporation
 76 alleged to be liable to the injured party for the injuries ~~[and/or]~~ or damages, or both sustained; and

77 (3) the hospital mails a copy of the written notice by certified mail with return receipt
 78 requested to the home office of any insurance carrier that has insured the person, firm, or
 79 corporation against liability, if the name and address is known.

80 Section 4. Section **57-3-106** is amended to read:

81 **57-3-106. Original documents required -- Captions -- Legibility.**

82 (1) (a) Unless otherwise provided, documents presented for recording in the office of the
 83 county recorder shall:

84 (i) be originals; and

85 (ii) contain a brief caption stating the nature of the document.

86 (b) If a document is a master form, as defined in Section 57-3-201, the caption required
 87 by Subsection (1)(a)(ii) shall state that the document is a master form.

88 (2) A court judgment or an abstract of a court judgment presented for recording in
 89 compliance with Section 78-22-1 shall be an original or a certified copy as defined in Section

90 57-1-1 and shall include the information identifying the judgment debtor as required in
91 Subsections 78-22-1.5(4) and (5).

92 (3) A foreign judgment or an abstract of a foreign judgment recorded in the office of a
93 county recorder shall include the affidavit of the judgment as required in Section 78-22a-3.

94 (4) A court judgment or an abstract of a court judgment recorded in the office of a county
95 recorder in compliance with Section 78-5-119 that does not include the debtor identifying
96 information referred to in Subsection (2) is not a lien upon the lands of the judgment debtor until
97 the recorded judgment is perfected by the recording of an amendment to the judgment as provided
98 in Subsection 78-22-1.5(6).

99 (5) Any satisfaction of a judgment recorded to release a judgment in the office of the
100 county recorder shall recite the date of recording, the entry number, and the book and page of the
101 instrument creating the judgment.

102 [~~(2)~~] (6) Documents presented for recording shall also be sufficiently legible for the
103 recorder to make certified copies.

104 [~~(3)~~] (7) (a) A document which is of record in the office of the appropriate county recorder
105 in compliance with this chapter may not be recorded again in that same county recorder's office
106 unless the original document has been reexecuted by all parties who executed the document.
107 Unless exempt by statute, original documents which are reexecuted must also contain the
108 appropriate acknowledgment, proof of execution, jurat or other notarial certification for all parties
109 who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act,
110 and Title 57, Chapter 2, Acknowledgments. Documents submitted for rerecording shall contain
111 a brief statement explaining the reason for rerecording.

112 (b) A county recorder may refuse to accept a document for rerecording if that document
113 does not conform to the requirements of this section.

114 (c) Subsection [~~(3) of this section~~] (7) applies only to documents executed after July 1,
115 1998.

116 [~~(4)~~] (8) Minor typographical or clerical errors in a document of record may be corrected
117 by the recording of an appropriate instrument.

118 Section 5. Section **62A-11-207** is amended to read:

119 **62A-11-207. Registration of an abstract of final administrative order -- Real**
120 **property lien when recorded in the office of the county recorder -- Effect of order --**

121 **Execution.**

122 (1) An abstract of a final administrative order may be ~~[docketed]~~ registered in the district
123 court of any county in the state. The time of receipt of the abstract shall be noted by the clerk on
124 the abstract and entered in the ~~[docket]~~ "Registry of Judgments," as defined in Subsection
125 78-22-1.5(1).

126 (2) ~~[From the time]~~ Upon recordation of the abstract ~~[is docketed]~~ referred to in Subsection
127 (1) in the [judgment docket of a district court, any administrative judgment included in] office of
128 the county recorder in which the land of the obligor is located, the order ~~[abstracted]~~ constitutes
129 a lien upon the real property of the obligor situated in that county that shall run for a period of eight
130 years from the ~~[date]~~ time the order is ~~[entered]~~ registered in the district court under Subsection
131 (1), unless previously satisfied.

132 (3) The final administrative order fixing the liability of the obligor shall have the same
133 effect as any other money judgment ~~[entered in a district court].~~

134 (4) Attachment, garnishment, or execution on a judgment included in or accruing under
135 an administrative order ~~[filed and docketed]~~ registered in a district court and recorded in the office
136 of the county recorder in accordance with this section shall be in the same manner and with the
137 same effect as an attachment, garnishment, or execution on a judgment of a district court, except
138 that a writ of garnishment on earnings shall continue to operate and require the garnishee to
139 withhold the nonexempt portion of the earnings at each succeeding earnings disbursement interval
140 until released in writing by the office or by court order. Any satisfaction of judgment recorded to
141 release a judgment shall be recorded in the office of the appropriate county recorder under the
142 requirements of Section 57-3-106.

143 (5) The lien and enforcement remedies provided by this section are in addition to any other
144 lien or remedy provided by law.

145 Section 6. Section **78-5-119** is amended to read:

146 **78-5-119. Judgment not a lien unless so recorded.**

147 (1) A judgment rendered in a justice court does not create a lien upon any lands of the
148 judgment debtor unless the judgment or an abstract of the judgment that contains the identifying
149 information of the judgment debtor as required in Subsections 78-22-1.5(4) and (5) is ~~[filed and~~
150 ~~docketed]~~ recorded in the office of the ~~[clerk of the district court]~~ county recorder of the county
151 in which the lands of the judgment debtor are located.

152 (2) [~~When filed and docketed, the judgment is a lien upon the real property of the~~
153 ~~judgment debtor that is not exempt from execution and is situated in that county]~~ The lien runs for
154 eight years from the date the judgment was entered in the "Registry of Judgments," as defined in
155 Subsection 78-22-1.5(1) unless the judgment is earlier satisfied.

156 (3) A judgment or abstract of judgment recorded in the office of a county recorder in
157 compliance with this section that does not contain the debtor identifying information as required
158 in Subsections 78-22-1.5(4) and (5) is not a lien upon the lands of the judgment debtor until the
159 recorded judgment is perfected by the recording of an amendment to the judgment as provided in
160 Subsection 78-22-1.5(6).

161 Section 7. Section **78-22-1** is amended to read:

162 **78-22-1. Duration of judgment -- Judgment as a lien upon real property -- Abstract**
163 **of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support**
164 **orders.**

165 (1) Except as provided in Subsection [~~(6)~~] (7), judgments shall continue for eight years
166 from the time of registration by a district court unless previously satisfied or unless enforcement
167 of the judgment is stayed in accordance with law.

168 (2) Prior to July 1, 1997, except as limited by Subsections (4) and [~~(5)~~] (6), the entry of
169 judgment by a district court is a lien upon the real property of the judgment debtor, not exempt
170 from execution, owned or acquired during the existence of the judgment, located in the county in
171 which the judgment is entered.

172 (3) Prior to and after July 1, 1997, but before July 1, 2001, an abstract of judgment issued
173 by the court in which the judgment is entered may be [~~recorded~~] registered in any court of this state
174 and shall have the same force and effect as a judgment entered in that court.

175 (4) Prior to July 1, 1997, and after May 15, 1998, subject to Subsection (5) a judgment
176 entered in the small claims division of any court shall not qualify as a lien upon real property
177 unless abstracted to the civil division of the district court and recorded in accordance with
178 Subsection (3).

179 (5) After July 1, 2001, a judgment entered in the small claims division of any court shall
180 not qualify as a lien upon real property unless abstracted to the civil division of the district court
181 and recorded in the office of the county recorder as required in Section 78-5-119.

182 [~~(5)~~] (6) (a) If any judgment is appealed, upon deposit with the court where the notice of

183 appeal is filed of cash or other security in a form and amount considered sufficient by the court that
184 rendered the judgment to secure the full amount of the judgment, together with ongoing interest
185 and any other anticipated damages or costs, including attorney's fees and costs on appeal, the lien
186 created by Subsection (2) shall be terminated as provided in Subsection [~~(5)~~] (6)(b).

187 (b) Upon the deposit of sufficient security as provided in Subsection [~~(5)~~] (6)(a), the court
188 shall enter an order terminating the lien created by the judgment under Subsection (2) and granting
189 the judgment creditor a perfected lien in the deposited security as of the date of the original
190 judgment.

191 [~~(6)~~] (7) Enforcement of a child support order may be pursued at any time within four
192 years after the date the youngest child reaches majority.

193 (8) (a) After July 1, 2001, except as limited by Subsections (4) and (6), the recordation of
194 a judgment in the office of the county recorder as required in Section 78-5-119 becomes a lien
195 upon any real property of the judgment debtor, not exempt from execution, owned or acquired
196 during the existence of the judgment.

197 (b) The duration of a judgment recorded in the office of a county recorder shall run from
198 the time of registration in the district court under Subsection (1).

199 (9) (a) A judgment referred to in Subsection (8) shall be entered in the appropriate index
200 in the office of the county recorder as required in Section 17-21-6.

201 (b) A judgment containing a legal description shall be abstracted in the appropriate tract
202 index in the office of the county recorder.

203 Section 8. Section **78-22-1.5** is amended to read:

204 **78-22-1.5. Definitions -- Judgment recorded in Registry of Judgments.**

205 (1) For purposes of this section, "Registry of Judgments" means the index where a
206 judgment shall be [~~recorded~~] registered and searchable by the name of the judgment debtor through
207 electronic means or by tangible document.

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

212 (3) On or after July 1, 2001, a judgment registered in a district court does not create a lien
213 upon or affect the title to real property unless the judgment or an abstract of judgment is recorded

214 in the office of the county recorder in which the real property of the judgment debtor is located.

215 [~~(3)~~] (4) In addition to the requirement of [~~Subsection~~] Subsections (2) and (3), any
216 judgment that is [~~recorded~~] registered in the Registry of Judgments on or after September 1, 1998,
217 or any judgment or abstract of judgment that is recorded in the office of a county recorder after
218 July 1, 2001, shall include [~~a~~] the information identifying the judgment debtor on the judgment or
219 abstract of judgment or a copy of the separate information statement of the judgment creditor that
220 contains:

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

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

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

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

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

229 [~~(4)~~] (5) For the information required in Subsection [~~(3)~~] (4), the judgment creditor shall:

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

233 (b) state on the separate information statement that the information is unknown or
234 unavailable.

235 [~~(5)~~] (6) (a) Any judgment that requires payment of money and is [~~recorded~~] registered in
236 a district court on or after September 1, 1998, [~~and~~] or any judgment or abstract of judgment
237 recorded in the office of a county recorder after July 1, 2001, that is not accompanied by the
238 separate information statement as required in Subsections [~~(3)~~] (4) and [~~(4)~~] (5) may be amended
239 by [~~recording~~] registering a document entitled "Amendment to [~~Recorded~~] Judgment" in the
240 Registry of Judgments and in the office of a county recorder in compliance with Subsections [~~(3)~~]
241 (4) and [~~(4)~~] (5).

242 (b) The amendment to [~~the recorded~~] a registered judgment shall state the date of
243 [~~recording~~] entry of the original judgment in the Registry of Judgments. The amendment to a
244 judgment recorded in the office of a county recorder shall state the time of recording, the entry

245 number, and the book and page of the original judgment.

246 (c) [~~Recording an~~] An amendment to a recorded judgment has no effect on the
247 computation of time as provided in Section 78-22-1.

248 [~~(6)~~] (7) A judgment that requires payment of money recorded on or after September 1,
249 1998, has as its priority the date of compliance with Subsections [~~(3)~~] (4) and [~~(4)~~] (5).

250 Section 9. Section **78-22a-5** is amended to read:

251 **78-22a-5. Lien.**

252 [~~(1)~~] A foreign judgment [~~filed~~] registered in a district court under this chapter becomes
253 a lien as provided in Section 78-22-1 if:

254 (1) a stay of execution has not been granted[-];

255 (2) [~~If~~] the requirements of this chapter are satisfied[-, ~~the foreign judgment becomes a lien~~
256 ~~upon~~]; and

257 (3) the judgment [~~debtor's property on the date it is docketed~~] is recorded in the office of
258 the county recorder where the property of the judgment debtor is located, as provided in Section
259 78-22-1.

260 Section 10. **Effective date.**

261 This act takes effect on July 1, 2001.

Legislative Review Note
as of 2-9-01 3:10 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel