

JUDGMENT LIEN AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This bill requires that a separate information sheet be filed when filing a judgment lien.

Highlighted Provisions:

This bill:

- ▶ requires the filing of a separate information sheet with a judgment lien.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-3-106, as last amended by Laws of Utah 2011, Chapter 88

78A-7-105, as last amended by Laws of Utah 2012, Chapter 205

78B-5-201, as last amended by Laws of Utah 2011, Chapter 88

78B-5-202, as last amended by Laws of Utah 2011, Chapter 88

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

Section 1. Section **57-3-106** is amended to read:

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

(1) A person may not present and a county recorder may refuse to accept a document for recording if the document does not comply with this section.

(2) (a) Unless otherwise provided, a document presented for recording in the office of

30 the county recorder shall:

31 (i) be an original;

32 (ii) contain a brief caption on the first page of the document stating the nature of the
33 document; and

34 (iii) contain a legal description of the property as required under Section 57-3-105.

35 (b) If a document is a master form, as defined in Section 57-3-201, the caption required
36 by Subsection (2)(a)(ii) shall state that the document is a master form.

37 (3) A court judgment or an abstract of a court judgment presented for recording in the
38 office of the county recorder in compliance with Section 78B-5-202 shall:

39 (a) be an original or certified copy; and

40 (b) include the information identifying the judgment debtor as referred to in Subsection
41 78B-5-201(4)(b) either:

42 (i) in the judgment or abstract of judgment; or

43 (ii) as a separate information statement of the judgment creditor as referred to in
44 Subsection 78B-5-201(5).

45 (4) A judgment, abstract of judgment, or separate information statement of the
46 judgment creditor does not require an acknowledgment, a legal description, or notarization to
47 be recorded.

48 (5) A foreign judgment or an abstract of a foreign judgment recorded in the office of a
49 county recorder shall include the affidavit as required in Section 78B-5-303.

50 (6) Any document recorded in the office of the county recorder to release, assign,
51 renew, or extend a judgment lien shall include:

52 (a) the name of any judgment creditor, debtor, assignor, or assignee;

53 (b) the date on which the instrument creating the lien was recorded in the office of the
54 county recorder;

55 (c) the entry number and book and page of the recorded instrument creating the
56 judgment lien; and

57 (d) the date on which the document is recorded.

58 (7) A document presented for recording shall be sufficiently legible for the recorder to
59 make certified copies of the document.

60 (8) (a) (i) A document that is of record in the office of the appropriate county recorder
61 in compliance with this chapter may not be recorded again in that same county recorder's office
62 unless the original document has been reexecuted by all parties who executed the document.

63 (ii) Unless exempt by statute, an original document that is reexecuted shall contain the
64 appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all
65 parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public
66 Reform Act, and Title 57, Chapter 2, Acknowledgments.

67 (iii) A document submitted for rerecording shall contain a brief statement explaining
68 the reason for rerecording.

69 (b) A person may not present and a county recorder may refuse to accept a document
70 for rerecording if that document does not conform to this section.

71 (c) This Subsection (8) applies only to documents executed after July 1, 1998.

72 (9) Minor typographical or clerical errors in a document of record may be corrected by
73 the recording of an affidavit or other appropriate instrument.

74 (10) (a) Except as required by federal law, or by agreement between a borrower under
75 the trust deed and a grantee under the trustee's deed, and subject to Subsection (10)(b), neither
76 the recordation of an affidavit under Subsection (9) nor the reexecution and rerecording of a
77 document under Subsection (8):

78 (i) divests a grantee of any real property interest;

79 (ii) alters an interest in real property; or

80 (iii) returns to the grantor an interest in real property conveyed by statute.

81 (b) A person who reexecutes and rerecords a document under Subsection (8), or
82 records an affidavit under Subsection (9), shall include with the document or affidavit a notice
83 containing the name and address to which real property valuation and tax notices shall be
84 mailed.

85 Section 2. Section **78A-7-105** is amended to read:

86 **78A-7-105. Territorial jurisdiction -- Voting.**

87 (1) The territorial jurisdiction of county justice courts extends to the limits of the
88 precinct for which the justice court is created and includes all cities or towns within the
89 precinct, except cities where a municipal justice court exists.

90 (2) The territorial jurisdiction of municipal justice courts extends to the corporate
91 limits of the municipality in which the justice court is created.

92 (3) Justice court judges have the same authority regarding matters within their
93 jurisdiction as judges of courts of record.

94 (4) A justice court may issue all extraordinary writs and other writs as necessary to
95 carry into effect its orders, judgments, and decrees.

96 (5) (a) Except as provided in this Subsection (5), a judgment rendered in a justice court
97 does not create a lien upon any real property of the judgment debtor unless the judgment or
98 abstract of the judgment:

99 (i) is recorded in the office of the county recorder of the county in which the real
100 property of the judgment debtor is located; and

101 (ii) contains the information identifying the judgment debtor in the judgment or
102 abstract of judgment as required in Subsection 78B-5-201(4)(b) or as a separate information
103 statement of the judgment creditor as required in Subsection 78B-5-201(5).

104 (b) The lien runs for eight years from the date the judgment was entered in the district
105 court under Section 78B-5-202 unless the judgment is earlier satisfied.

106 (c) State agencies are exempt from the recording requirement of Subsection (5)(a).

107 Section 3. Section 78B-5-201 is amended to read:

108 **78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.**

109 (1) For purposes of this part, "Registry of Judgments" means the index where a
110 judgment is filed and searchable by the name of the judgment debtor through electronic means
111 or by tangible document.

112 (2) On or after July 1, 1997, a judgment entered in a district court does not create a lien
113 upon or affect the title to real property unless the judgment is filed in the Registry of Judgments

114 of the office of the clerk of the district court of the county in which the property is located.

115 (3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment
116 entered in a district court does not create a lien upon or affect the title to real property unless
117 the judgment or an abstract of judgment is recorded in the office of the county recorder in
118 which the real property of the judgment debtor is located.

119 (b) State agencies are exempt from the recording requirement of Subsection (3)(a).

120 (4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is
121 filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract
122 of judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:

123 (a) the information identifying the judgment debtor as required under Subsection (4)(b)
124 on the judgment or abstract of judgment; or

125 (b) a copy of the separate information statement of the judgment creditor that contains:

126 (i) the correct name and last-known address of each judgment debtor and the address at
127 which each judgment debtor received service of process;

128 (ii) the name and address of the judgment creditor;

129 (iii) the amount of the judgment as filed in the Registry of Judgments;

130 (iv) if known, the judgment debtor's Social Security number, date of birth, and driver's
131 license number if a natural person; and

132 (v) whether or not a stay of enforcement has been ordered by the court and the date the
133 stay expires.

134 (5) For the information required in Subsection (4), the judgment creditor shall:

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

138 (b) state on the separate information statement that the information is unknown or
139 unavailable.

140 (6) (a) Any judgment that requires payment of money and is entered in a district court
141 on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office

142 of a county recorder after July 1, 2002, that does not include the debtor identifying information
143 as required in Subsection (4) is not a lien until a separate information statement of the
144 judgment creditor is recorded in the office of a county recorder in compliance with Subsections
145 (4) and (5).

146 (b) The separate information statement of the judgment creditor referred to in
147 Subsection (6)(a) shall include:

- 148 (i) the name of any judgment creditor, debtor, assignor, or assignee;
- 149 (ii) the date on which the judgment was recorded in the office of the county recorder as
150 described in Subsection (4); and
- 151 (iii) the county recorder's entry number and book and page of the recorded judgment.

152 (7) A judgment that requires payment of money recorded on or after September 1,
153 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with
154 actual or constructive knowledge of the judgment.

155 (8) A judgment or notice of judgment wrongfully filed against real property is subject
156 to Title 38, Chapter 9, Wrongful Liens and Wrongful Judgment Liens.

157 (9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the
158 office of a county recorder, a person shall, in the office of the county recorder of each county in
159 which an instrument creating the lien is recorded, record a document releasing, assigning,
160 renewing, or extending the lien.

161 (b) The document described in Subsection (9)(a) shall include:

- 162 (i) the date of the release, assignment, renewal, or extension;
- 163 (ii) the name of any judgment creditor, debtor, assignor, or assignee; and
- 164 (iii) for the county in which the document is recorded in accordance with Subsection
165 (9)(a):

166 (A) the date on which the instrument creating the lien was recorded in that county's
167 office of the county recorder; and

168 (B) in accordance with Section [57-3-106](#), that county recorder's entry number and book
169 and page of the recorded instrument creating the judgment lien.

170 Section 4. Section **78B-5-202** is amended to read:

171 **78B-5-202. Duration of judgment -- Judgment as a lien upon real property --**
172 **Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child**
173 **support orders.**

174 (1) Judgments shall continue for eight years from the date of entry in a court unless
175 previously satisfied or unless enforcement of the judgment is stayed in accordance with law.

176 (2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of
177 judgment by a district court creates a lien upon the real property of the judgment debtor, not
178 exempt from execution, owned or acquired during the existence of the judgment, located in the
179 county in which the judgment is entered.

180 (3) An abstract of judgment issued by the court in which the judgment is entered may
181 be filed in any court of this state and shall have the same force and effect as a judgment entered
182 in that court.

183 (4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small
184 claims division of any court may not qualify as a lien upon real property unless abstracted to
185 the civil division of the district court and recorded in accordance with Subsection (3).

186 (5) (a) If any judgment is appealed, upon deposit with the court where the notice of
187 appeal is filed of cash or other security in a form and amount considered sufficient by the court
188 that rendered the judgment to secure the full amount of the judgment, together with ongoing
189 interest and any other anticipated damages or costs, including attorney fees and costs on appeal,
190 the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

191 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court
192 shall enter an order terminating the lien created by the judgment and granting the judgment
193 creditor a perfected lien in the deposited security as of the date of the original judgment.

194 (6) (a) A child support order or a sum certain judgment for past due support may be
195 enforced:

196 (i) within four years after the date the youngest child reaches majority; or

197 (ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

198 (b) The longer period of duration shall apply in every order.

199 (c) A sum certain judgment may be renewed to extend the duration.

200 (7) (a) After July 1, 2002, a judgment entered by a district court or a justice court in the
201 state becomes a lien upon real property if:

202 (i) the judgment or an abstract of the judgment containing the information identifying
203 the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the
204 county recorder; or

205 (ii) the judgment or an abstract of the judgment and a separate information statement of
206 the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the
207 county recorder.

208 (b) The judgment shall run from the date of entry by the district court or justice court.

209 (c) The real property subject to the lien includes all the real property of the judgment
210 debtor:

211 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

212 (ii) owned or acquired at any time by the judgment debtor during the time the judgment
213 is effective.

214 (d) State agencies are exempt from the recording requirement of Subsection (7)(a).

215 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the
216 judgment debtor in the judgment index in the office of the county recorder as required in
217 Section 17-21-6.

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

220 (9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the
221 office of a county recorder, a person shall, in the office of the county recorder of each county in
222 which an instrument creating the lien is recorded, record a document releasing, assigning,
223 renewing, or extending the lien.

224 (b) The document described in Subsection (9)(a) shall include:

225 (i) the date of the release, assignment, renewal, or extension;

226 (ii) the name of any judgment creditor, debtor, assignor, or assignee; and
227 (iii) for the county in which the document is recorded in accordance with Subsection
228 (9)(a):
229 (A) the date on which the instrument creating the lien was recorded in that county's
230 office of the county recorder; and
231 (B) in accordance with Section [57-3-106](#), that county recorder's entry number and book
232 and page of the recorded instrument creating the judgment lien.