

Effective 5/12/2015

38-2-7 Compensation -- Attorney's lien.

- (1) The compensation of an attorney is governed by agreement between the attorney and a client, express or implied, which is not restrained by law.
- (2) An attorney shall have a lien for the balance of compensation due from a client on any money or property owned by the client that is the subject of or connected with work performed for the client, including:
 - (a) any real, personal, or intangible property that is the subject of or connected with the work performed for the client;
 - (b) any funds held by the attorney for the client, including any amounts paid as a retainer to the attorney by the client; and
 - (c) any settlement, verdict, report, decision, or judgment in the client's favor in any matter or action in which the attorney assisted, including any proceeds derived from the matter or action, whether or not the attorney is employed by the client at the time the settlement, verdict, report, decision, or judgment is obtained.
- (3) An attorney's lien commences at the time of employment of the attorney by the client.
- (4)
 - (a) An attorney may enforce a lien under this section by:
 - (i) moving to intervene in a pending legal action:
 - (A) in which the attorney has assisted or performed work; or
 - (B) in which the property subject to the attorney's lien may be disposed of or otherwise encumbered; or
 - (ii) by filing a separate legal action.
 - (b) An attorney may not move to intervene in an action or file a separate legal action to enforce a lien before 30 days has expired after a demand for payment has been made and not been complied with.
- (5) An attorney may file a notice of lien:
 - (a) in a pending legal action in which the attorney has assisted or performed work for which the attorney has a lien under this section;
 - (b) with the county recorder of the county in which real property that is subject to a lien under this section is located; or
 - (c) with the state or federal government office that receives filings that relate to the ownership of the property.
- (6) A notice of lien described in Subsection (5) shall include the following:
 - (a) the name, address, and telephone number of the attorney claiming the lien;
 - (b) the name of the client who is the owner of the property subject to the lien;
 - (c) a verification that:
 - (i) the property is the subject of or connected with work performed by the attorney for the client; and
 - (ii)
 - (A) the attorney made a demand for payment of the amounts owed to the attorney for the work and the client did not pay the amounts owed within 30 days after the day on which the attorney made the demand; or
 - (B) the attorney is filing the notice of lien in accordance with a written agreement between the attorney and the client;
 - (d) the date on which the attorney first provided services to the client;
 - (e) a description of the property, sufficient for identification;
 - (f) the signature of the attorney claiming the lien; and

- (g) an acknowledgment or certificate as required under Title 57, Chapter 3, Recording of Documents.
- (7) Within 30 days after the day on which the notice of lien is filed, the attorney shall deliver or mail by certified mail to the client a copy of the notice of lien.
- (8) Any person who takes an interest in any property, other than real property, that is subject to an attorney's lien with actual or constructive knowledge of the attorney's lien, takes the interest subject to the attorney's lien.
- (9) An attorney's lien on real property has as its priority the date and time when a notice of lien is filed with the county recorder of the county in which real property that is subject to a lien under this section is located.
- (10) This section does not alter or diminish in any way an attorney's common law retaining lien rights.
- (11) This section does not authorize an attorney to have a lien in the representation of a client in a criminal matter or domestic relations matter where a final order of divorce has not been secured unless:
 - (a)
 - (i) the criminal matter has been concluded or the domestic relations matter has been concluded by the securing of a final order of divorce; or
 - (ii) the attorney/client relationship has terminated; and
 - (b) the client has failed to fulfill the client's financial obligation to the attorney.

Amended by Chapter 168, 2015 General Session