

LIEN ON REAL PROPERTY

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Alma Mansell

AN ACT RELATING TO JUDICIAL CODE; MODIFYING DEFINITION OF LIEN; MODIFYING PROVISIONS RELATED TO JUDGMENTS AS LIENS UPON REAL PROPERTY; REQUIRING IDENTIFYING INFORMATION IN A SEPARATE INFORMATION STATEMENT INCLUDED WITH THE JUDGMENT AND PROVIDING EXEMPTIONS; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

38-12-101, as last amended by Chapter 127, Laws of Utah 1996

78-22-1, as last amended by Chapter 96, Laws of Utah 1997

78-22-1.5, as enacted by Chapter 96, Laws of Utah 1997

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

Section 1. Section **38-12-101** is amended to read:

38-12-101. Definitions.

For purposes of this chapter:

(1) "Lien" means:

(a) failure to pay moneys owed for property, services, or a notice of interest, a judgment, or any other encumbrance on the title, that becomes a charge against or interest in:

(i) real property, a building, a structure, or an improvement including any franchise, privilege, appurtenance, machinery, or fixture pertaining to or used in connection with any real property, building, structure, or improvement;

(ii) personal property; or

(iii) a judgment, settlement, or compromise; or

(b) a tax as provided in Section 59-1-302.1, 59-5-108, 59-5-208, 59-11-110, or 59-12-112.

(2) "Lien" does not mean a charge against or interest in, for failure to pay moneys owed for property, services, or a judgment, any:

- (a) bank account;
- (b) pension; or
- (c) garnishment.

Section 2. Section **78-22-1** is amended to read:

78-22-1. Duration of judgment -- Judgment as lien upon real property -- Abstract of judgment -- Small claims judgment not lien.

(1) Judgments shall continue for eight years unless previously satisfied or unless enforcement of the judgment is stayed in accordance with law.

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

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

(4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small claims division of any court shall not qualify as a lien upon real property unless ~~[filed and docketed]~~ abstracted to the civil division of the district court and recorded in accordance with Subsection (3). ~~[This Subsection (4) shall apply to all small claims judgments entered on or after April 27, 1992.]~~

Section 3. Section **78-22-1.5** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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