

Representative David L. Hogue proposes to substitute the following bill:

ATTORNEY LIEN LAW

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Hogue

AN ACT RELATING TO THE JUDICIAL CODE; PROVIDING FOR AN ATTORNEY'S LIEN FOR WORK PERFORMED; AND CLARIFYING WHEN A LIEN MAY BE FILED AND ENFORCED.

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

REPEALS AND REENACTS:

78-51-41, as last amended by Chapter 100, Laws of Utah 1989

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

Section 1. Section **78-51-41** is repealed and reenacted to read:

78-51-41. 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 moneys or property that is the subject of or connected with work performed for the client, including, but not limited to:

(a) any real or personal 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,

26 decision, or judgment is obtained.

27 (3) An attorney's lien commences at the time of employment of the attorney by the client.

28 (4) An attorney may enforce a lien under this section by moving to intervene in a pending
29 legal action in which the attorney has assisted or performed work, or by filing a separate legal
30 action. An attorney may not move to intervene in an action or file a separate legal action to
31 enforce a lien before 30 days has expired after a demand for payment has been made and not been
32 complied with.

33 (5) An attorney may not be required to file a notice of lien as a prerequisite to enforcing
34 a lien as provided by Subsection (4). However, an attorney may file a notice of lien in a pending
35 legal action in which the attorney has assisted or performed work for which the attorney has a lien
36 under this section. In addition, an attorney may file a notice of lien with the county recorder of the
37 county in which real property that is subject to a lien under this section is located.

38 (6) Any person who takes an interest in any property that is subject to an attorney's lien
39 with actual or constructive knowledge of the attorney's lien, takes their interest subject to the
40 attorney's lien. Priority between competing attorney's liens shall be determined by the date the
41 work is performed by the attorney for the client, with the earlier work receiving the higher priority.

42 (7) This section does not alter or diminish in any way an attorney's common law retaining
43 lien rights.