

Representative Thomas V. Hatch proposes to substitute the following bill:

JUDGMENTS LIEN REVISION

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

AN ACT RELATING TO THE JUDICIAL CODE; CHANGING THE PLACE TO FILE
JUDGMENT LIENS FROM THE DISTRICT COURT TO THE COUNTY RECORDER'S
OFFICE; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

57-3-106, as renumbered and amended by Chapter 61 and last amended by Chapter 85,
Laws of Utah 1998

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

78-22-1, as last amended by Chapter 75, Laws of Utah 1999

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

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) Unless otherwise provided, documents presented for recording in the office of the
county recorder shall:

(i) be originals; and

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

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

(2) Court judgments presented for recording in accordance with Section 78-22-1 shall be
originals or certified copies.

26 [(2)] (3) Documents presented for recording shall also be sufficiently legible for the
27 recorder to make certified copies.

28 [(3)] (4) (a) A document which is of record in the office of the appropriate county recorder
29 in compliance with this chapter, may not be recorded again in that same county recorder's office
30 unless the original document has been reexecuted by all parties who executed the document.
31 Unless exempt by statute, original documents which are reexecuted must also contain the
32 appropriate acknowledgment, proof of execution, jurat or other notarial certification for all parties
33 who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act,
34 and Title 57, Chapter 2, Acknowledgments. Documents submitted for rerecording shall contain
35 a brief statement explaining the reason for rerecording.

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

38 (c) Subsection [(3)] (4) of this section applies only to documents executed after July 1,
39 1998.

40 [(4)] (5) Documents of record in the office of a county recorder, containing minor
41 typographical or clerical errors, may be augmented, amended, or corrected by the recording of an
42 affidavit or other appropriate instrument.

43 Section 2. Section **78-5-119** is amended to read:

44 **78-5-119. Judgment not a lien unless so docketed.**

45 (1) A judgment rendered in a justice court does not create a lien upon any lands of the
46 judgment debtor unless the judgment or an abstract of the judgment is [~~filed and docketed~~]
47 recorded in the office of the [~~clerk of the district court~~] county recorder of the county in which the
48 lands are located.

49 (2) When [~~filed and docketed~~] recorded, the judgment is a lien upon the real property of
50 the judgment debtor that is not exempt from execution and is situated in that county for eight years
51 from the date the judgment was entered unless the judgment is earlier satisfied.

52 Section 3. Section **78-22-1** is amended to read:

53 **78-22-1. Duration of judgment -- Judgment as lien upon real property -- Abstract**
54 **of judgment -- Small claims judgment not lien -- Appeal of judgment.**

55 (1) Judgments shall continue for eight years from the date entered by the court unless
56 previously satisfied or unless enforcement of the judgment is stayed in accordance with law.

57 (2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of
58 judgment by a district court [is] shall become a lien upon [the] any real property of the judgment
59 debtor, not exempt from execution, owned or acquired during the existence of the judgment, and
60 located in the county in which the judgment is entered.

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

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

67 (5) (a) If any judgment is appealed, upon deposit with the court where the notice of appeal
68 is filed of cash or other security in a form and amount considered sufficient by the court that
69 rendered the judgment to secure the full amount of the judgment, together with ongoing interest
70 and any other anticipated damages or costs, including attorney's fees and costs on appeal, the lien
71 created by Subsection (2) shall be terminated as provided in Subsection (5)(b).

72 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall
73 enter an order terminating the lien created by the judgment under Subsection (2) and granting the
74 judgment creditor a perfected lien in the deposited security as of the date of the original judgment.

75 (6) After July 1, 2000, except as limited by Subsections (4) and (5), the entry of judgment
76 by a district court shall become a lien upon any real property of the judgment debtor, not exempt
77 from execution, owned or acquired during the existence of the judgment, and located in the county
78 in which the judgment is entered, upon the date the judgment or abstract of judgment is recorded
79 in the office of the county recorder of the county in which real property owned by the judgment
80 debtor is located.

81 (7) When a judgment has been recorded, the county recorder shall:

82 (a) enter the judgment in the appropriate index as required under the provisions of Section
83 17-21-6; and

84 (b) if the judgment contains a legal description, abstract the judgment against the real
85 property described in the judgment.

86 Section 4. Section **78-22-1.5** is amended to read:

87 **78-22-1.5. Definitions -- Judgment recorded.**

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

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

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

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

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

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

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

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

106 (4) On or after July 1, 2000, a judgment entered or recorded in a district court does not
107 create a lien upon or affect the title to real property unless the judgment is recorded in the office
108 of the county recorder in the county in which property of the judgment debtor is located.

109 [(4)] (5) For the information required in Subsection (3), the judgment creditor shall:

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

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

115 [(5)] (6) (a) Any judgment that requires payment of money and is recorded on or after
116 September 1, 1998, and is not accompanied by the separate information statement as required in
117 Subsections (3) and [(4)] (5) may be amended by recording a document entitled "Amendment to
118 Recorded Judgment" in the Registry of Judgments in compliance with Subsections (3) and [(4)]

119 (5).

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

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

124 [~~(6)~~] (7) A judgment that requires payment of money recorded on or after September 1,
125 1998, has as its priority the date of compliance with Subsections (3) and [~~(4)~~] (5).

126 Section 5. **Effective date.**

127 This act takes effect on July 1, 2000.