? Approved for Filing: ECM ? ? 01-12-01 12:14 PM ?

1	AMENDMENTS TO ATTORNEY LIEN LAW
2	2001 GENERAL SESSION
3	STATE OF UTAH
4	Sponsor: David L. Hogue
5	This act modifies the statute relating to attorney's liens. It repeals the original statute and
6	replaces it with provisions allowing for an attorney's lien on work performed, clarifies the
7	circumstances under which it can be filed, specifies what the lien may be applied to, and
8	provides for enforcement of the lien.
9	This act affects sections of Utah Code Annotated 1953 as follows:
10	REPEALS AND REENACTS:
11	78-51-41, as last amended by Chapter 100, Laws of Utah 1989
12	Be it enacted by the Legislature of the state of Utah:
13	Section 1. Section 78-51-41 is repealed and reenacted to read:
14	78-51-41. Compensation Attorney's lien.
15	(1) The compensation of an attorney is governed by agreement between the attorney and
16	a client, express or implied, which is not restrained by law.
17	(2) An attorney shall have a lien for the balance of compensation due from a client on any
18	moneys or property that is the subject of or connected with work performed for the client,
19	including, but not limited to:
20	(a) any real or personal property that is the subject of or connected with the work
21	performed for the client;
22	(b) any funds held by the attorney for the client, including any amounts paid as a retainer
23	to the attorney by the client; and
24	(c) any settlement, verdict, report, decision, or judgment in the client's favor in any matter
25	or action in which the attorney assisted, including any proceeds derived from the matter or action,
26	whether or not the attorney is employed by the client at the time the settlement, verdict report,
27	decision, or judgment is obtained.

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28	(3) An attorney's lien commences at the time of employment of the attorney by the client.
29	(4) An attorney may enforce a lien under this section by moving to intervene in a pending
30	legal action in which the attorney has assisted or performed work, or by filing a separate legal
31	action. An attorney may not move to intervene in an action or file a separate legal action to
32	enforce a lien before 30 days has expired after a demand for payment has been made and not been
33	complied with.
34	(5) An attorney may not be required to file a notice of lien as a prerequisite to enforcing
35	a lien as provided by Subsection (4). However, an attorney may file a notice of lien in a pending
36	legal action in which the attorney has assisted or performed work for which the attorney has a lien
37	under this section. In addition, an attorney may file a notice of lien with the county recorder of the
38	county in which real property that is subject to a lien under this section is located.
39	(6) Any person who takes an interest in any property that is subject to an attorney's lien
40	with actual or constructive knowledge of the attorney's lien, takes their interest subject to the
41	attorney's lien. Priority between competing attorney's liens shall be determined by the date the
42	work is performed by the attorney for the client, with the earlier work receiving the higher priority.
43	(7) This section does not alter or diminish in any way an attorney's common law retaining
44	<u>lien rights.</u>
45	Section 2. Coordination clause.
46	If this bill and S.B. 13, Repeal of Attorneys and Counselors Provisions, both pass, it is the
47	intent of the Legislature that the Office of Legislative Research and General Counsel in preparing
48	the database for publication, shall renumber Section 78-51-41 in this bill to Section 38-2-7 as
49	provided in S.B. 13.

Legislative Review Note as of 1-2-01 3:26 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

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