

**Representative Margaret Dayton** proposes to substitute the following bill:

**FILING WRONGFUL LIENS OR JUDGEMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Margaret Dayton**

**This act raises the penalty for refusing to correct a wrongful lien and provides a cross reference to the wrongful lien statute for guidance in correcting a wrongful lien or judgment lien.**

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

AMENDS:

**38-9-4**, as repealed and reenacted by Chapter 125, Laws of Utah 1997

**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 **38-9-4** is amended to read:

**38-9-4. Civil liability for filing wrongful lien -- Damages.**

(1) A lien claimant who records or files or causes a wrongful lien as defined in Section 38-9-1 to be recorded or filed in the office of the county recorder against real property is liable to a record interest holder for any actual damages proximately caused by the wrongful lien.

(2) If the person in violation of this Subsection (1) refuses to release or correct the wrongful lien within 20 days from the date of written request from a record interest holder of the real property delivered [~~personally or mailed~~] by certified mail, return receipt requested, to the last-known address of the lien claimant, the person is liable to that record interest holder for [~~\$1,000~~] \$5,000 or for treble actual damages, whichever is greater, and for reasonable attorney fees and costs.

(3) A person is liable to the record owner of real property for [~~\$3,000~~] \$10,000 or for treble actual damages, whichever is greater, and for reasonable attorney fees and costs, who



26 records or files or causes to be recorded or filed a wrongful lien as defined in Section 38-9-1 in the  
27 office of the county recorder against the real property, knowing or having reason to know that the  
28 document:

- 29 (a) is a wrongful lien;
- 30 (b) is groundless; or
- 31 (c) contains a material misstatement or false claim.

32 Section 2. Section **78-22-1.5** is amended to read:

33 **78-22-1.5. Definitions -- Judgment recorded in Registry of Judgments.**

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

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

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

- 44 (a) the correct name and last-known address of each judgment debtor and the address at  
45 which each judgment debtor received service of process;
- 46 (b) the name and address of the judgment creditor;
- 47 (c) the amount of the judgment as entered in the Registry of Judgments;
- 48 (d) if known, the judgment debtor's social security number, date of birth, and driver's  
49 license number if a natural person; and
- 50 (e) whether or not a stay of enforcement has been ordered by the court and the date the stay  
51 expires.

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

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

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

57 unavailable.

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

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

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

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

68 (7) A judgment wrongfully entered under this section is subject to Title 38, Chapter 9,  
69 Wrongful Liens.