

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

**JUDGMENT LIEN AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Thomas V. Hatch**

**This act modifies provisions of the Utah Code related to judgment liens. The act provides that a judgment, an abstract of a judgment, or an abstract of a final administrative order constitutes a lien when it is recorded in the office of the county recorder. The act exempts state agencies from the recording requirement. The act outlines requirements for documents presented for recording in the office of the county recorder. The act designates the duration of a judgment recorded in the office of the county recorder. The act requires that a judgment recorded in the office of the county recorder that becomes a lien on the real property of a judgment debtor shall be entered in the appropriate index in the office of the county recorder. The act modifies provisions related to the filing of judgments in the Registry of Judgments. The act modifies provisions related to foreign judgment liens. The act also makes technical corrections. This act provides an effective date. This act provides a coordination clause.**

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

AMENDS:

**21-7-2**, as last amended by Chapter 181, Laws of Utah 1991

**38-5-1**, as last amended by Chapter 85, Laws of Utah 1971

**57-3-106**, as last amended by Chapter 320, Laws of Utah 2000

**62A-11-207**, as last amended by Chapter 198, Laws of Utah 1996

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

**78-22-1**, as last amended by Chapter 161, Laws of Utah 2000

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



26 78-22a-5, as last amended by Chapter 172, Laws of Utah 1986

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

28 Section 1. Section 21-7-2 is amended to read:

29 **21-7-2. Payment of fees prerequisite to service -- Exception.**

30 (1) (a) The state and county officers mentioned in this title may not perform any official  
31 service unless the fees prescribed for that service are paid in advance.

32 (b) When the fee is paid, the officer shall perform the services required.

33 (c) An officer is liable upon ~~[his]~~ an officer's official bond for every failure or refusal to  
34 perform an official duty when the fees are tendered.

35 (2) Except as provided for payment of ~~[filing]~~ recording fees ~~[of]~~ for county and municipal  
36 improvement district ~~[filings]~~ recordings in compliance with Sections 17A-3-207 and 17A-3-307,  
37 and as provided for payment of recording fees for judgments recorded in compliance with Sections  
38 57-3-106 and 78-5-119, no fees may be charged:

- 39 (a) to the officer's state, or any county or subdivision of the state;
- 40 (b) to any public officer acting for the state, county, or subdivision;
- 41 (c) in cases of habeas corpus;
- 42 (d) in criminal causes before final judgment;
- 43 (e) for administering and certifying the oath of office;
- 44 (f) for swearing pensioners and their witnesses; or
- 45 (g) for filing and recording bonds of public officers.

46 Section 2. Section 38-5-1 is amended to read:

47 **38-5-1. Registering with clerk of district court -- Recording with county recorder**  
48 **-- Effect.**

49 (1) Transcripts of judgments or decrees rendered in the district court of the United States  
50 within the state ~~[of Utah]~~ may be filed ~~[and docketed]~~ in the office of the clerk of the state district  
51 court of any county in this state~~], and when so filed and docketed, such judgments or decrees shall~~  
52 ~~have the same force and effect as a lien as judgments rendered and docketed in a district court of~~  
53 ~~this state in and for such county].~~

54 (2) Except as provided in Subsection (3), if a judgment or an abstract of judgment or  
55 decree under Subsection (1) is recorded in the office of the county recorder in which land of a  
56 judgment debtor is located, that judgment or decree becomes a lien on the real property of the

57 judgment debtor.

58 (3) State agencies are exempt from the recording requirement of Subsection (2), and need  
59 only register a transcript of judgment or decree under Subsection (1) to create a lien on the real  
60 property of a judgment debtor.

61 Section 3. Section **57-3-106** is amended to read:

62 **57-3-106. Original documents required -- Captions -- Legibility.**

63 (1) (a) Unless otherwise provided, documents presented for recording in the office of the  
64 county recorder shall:

65 (i) be originals; and

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

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

69 (2) A court judgment or an abstract of a court judgment presented for recording in  
70 compliance with Section 78-22-1 shall be an original or a certified copy as defined in Section  
71 57-1-1 and shall include the information identifying the judgment debtor as required in  
72 Subsections 78-22-1.5(4) and (5).

73 (3) Originals recorded in compliance with this section do not need an acknowledgment.

74 (4) A foreign judgment or an abstract of a foreign judgment recorded in the office of a  
75 county recorder shall include the affidavit of the judgment as required in Section 78-22a-3.

76 (5) A court judgment or an abstract of a court judgment recorded in the office of a county  
77 recorder in compliance with Section 78-5-119 that does not include the debtor identifying  
78 information referred to in Subsection (2) is not a lien upon the real property of the judgment debtor  
79 until the recorded judgment is perfected by the recording of an amendment to the judgment as  
80 provided in Subsection 78-22-1.5(6).

81 (6) Any satisfaction of a judgment recorded to release a judgment in the office of the  
82 county recorder shall recite the date of recording, the entry number, and the book and page of the  
83 instrument creating the judgment.

84 [~~2~~] (7) Documents presented for recording shall also be sufficiently legible for the  
85 recorder to make certified copies.

86 [~~3~~] (8) (a) A document which is of record in the office of the appropriate county recorder  
87 in compliance with this chapter may not be recorded again in that same county recorder's office

88 unless the original document has been reexecuted by all parties who executed the document.  
89 Unless exempt by statute, original documents which are reexecuted must also contain the  
90 appropriate acknowledgment, proof of execution, jurat or other notarial certification for all parties  
91 who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act,  
92 and Title 57, Chapter 2, Acknowledgments. Documents submitted for rerecording shall contain  
93 a brief statement explaining the reason for rerecording.

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

96 (c) Subsection [~~(3) of this section~~] (7) applies only to documents executed after July 1,  
97 1998.

98 [~~(4)~~] (9) Minor typographical or clerical errors in a document of record may be corrected  
99 by the recording of an appropriate instrument.

100 Section 4. Section **62A-11-207** is amended to read:

101 **62A-11-207. Filing of an abstract of final administrative order -- Real property lien**  
102 **when recorded in the office of the county recorder -- Effect of order -- Execution.**

103 (1) An abstract of a final administrative order may be [~~docketed~~] filed in the district court  
104 of any county in the state. The time of receipt of the abstract shall be noted by the clerk on the  
105 abstract and entered in the [~~docket~~] "Registry of Judgments," as defined in Subsection  
106 78-22-1.5(1).

107 (2) [~~From the time~~] Except as provided under Subsection 38-5-1(3), upon recordation of  
108 the abstract [is docketed] referred to in Subsection (1) in the [judgment docket of a district court,  
109 any administrative judgment included in] office of the county recorder in which the real property  
110 of the obligor is located, the order [~~abstracted~~] constitutes a lien upon the real property of the  
111 obligor situated in that county that shall run for a period of eight years from the [~~date~~] time the  
112 order is [~~entered~~] filed in the district court under Subsection (1), unless previously satisfied.

113 (3) The final administrative order fixing the liability of the obligor shall have the same  
114 effect as any other money judgment [~~entered in a district court~~].

115 (4) Attachment, garnishment, or execution on a judgment included in or accruing under  
116 an administrative order filed [~~and docketed~~] in a district court and recorded in the office of the  
117 county recorder in accordance with this section shall be in the same manner and with the same  
118 effect as an attachment, garnishment, or execution on a judgment of a district court, except that

119 a writ of garnishment on earnings shall continue to operate and require the garnishee to withhold  
120 the nonexempt portion of the earnings at each succeeding earnings disbursement interval until  
121 released in writing by the office or by court order. Any satisfaction of judgment recorded to  
122 release a judgment shall be recorded in the office of the appropriate county recorder under the  
123 requirements of Section 57-3-106.

124 (5) The lien and enforcement remedies provided by this section are in addition to any other  
125 lien or remedy provided by law.

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

127 **78-5-119. Judgment not a lien unless so recorded.**

128 (1) ~~[A]~~ Except as provided under Subsection 38-5-1(3), a judgment rendered in a justice  
129 court does not create a lien upon any [lands] real property of the judgment debtor unless the  
130 judgment or an abstract of the judgment that contains the identifying information of the judgment  
131 debtor as required in Subsections 78-22-1.5(4) and (5) is [filed and docketed] recorded in the office  
132 of the [clerk of the district court] county recorder of the county in which the [lands] real property  
133 of the judgment debtor are located.

134 (2) ~~[When filed and docketed, the judgment is a lien upon the real property of the~~  
135 ~~judgment debtor that is not exempt from execution and is situated in that county]~~ The lien runs for  
136 eight years from the date the judgment was ~~[entered]~~ filed in the "Registry of Judgments," as  
137 defined in Subsection 78-22-1.5(1) unless the judgment is earlier satisfied.

138 (3) A judgment or abstract of judgment recorded in the office of a county recorder in  
139 compliance with this section that does not contain the debtor identifying information as required  
140 in Subsections 78-22-1.5(4) and (5) is not a lien upon the real property of the judgment debtor until  
141 the recorded judgment is perfected by the recording of an amendment to the judgment as provided  
142 in Subsection 78-22-1.5(6).

143 Section 6. Section **78-22-1** is amended to read:

144 **78-22-1. Duration of judgment -- Judgment as a lien upon real property -- Abstract**  
145 **of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support**  
146 **orders.**

147 (1) Except as provided in Subsection ~~[(6)]~~ (7), judgments shall continue for eight years  
148 from the time of filing by a district court unless previously satisfied or unless enforcement of the  
149 judgment is stayed in accordance with law.

150 (2) Prior to July 1, 1997, except as limited by Subsections (4) and ~~[(5)]~~ (6), the entry of  
151 judgment by a district court is a lien upon the real property of the judgment debtor, not exempt  
152 from execution, owned or acquired during the existence of the judgment, located in the county in  
153 which the judgment is entered.

154 (3) Prior to and after July 1, 1997, but before July 1, 2001, an abstract of judgment issued  
155 by the court in which the judgment is entered may be ~~[recorded]~~ filed in any court of this state and  
156 shall have the same force and effect as a judgment entered in that court.

157 (4) Prior to July 1, 1997, and after May 15, 1998, subject to Subsection (5) a judgment  
158 entered in the small claims division of any court shall not qualify as a lien upon real property  
159 unless abstracted to the civil division of the district court and recorded in accordance with  
160 Subsection (3).

161 (5) After July 1, 2001, a judgment entered in the small claims division of any court shall  
162 not qualify as a lien upon real property unless abstracted to the civil division of the district court  
163 and recorded in the office of the county recorder as required in Section 78-5-119.

164 ~~[(5)]~~ (6) (a) If any judgment is appealed, upon deposit with the court where the notice of  
165 appeal is filed of cash or other security in a form and amount considered sufficient by the court that  
166 rendered the judgment to secure the full amount of the judgment, together with ongoing interest  
167 and any other anticipated damages or costs, including attorney's fees and costs on appeal, the lien  
168 created by Subsection (2) shall be terminated as provided in Subsection ~~[(5)]~~ (6)(b).

169 (b) Upon the deposit of sufficient security as provided in Subsection ~~[(5)]~~ (6)(a), the court  
170 shall enter an order terminating the lien created by the judgment under Subsection (2) and granting  
171 the judgment creditor a perfected lien in the deposited security as of the date of the original  
172 judgment.

173 ~~[(6)]~~ (7) Enforcement of a child support order may be pursued at any time within four  
174 years after the date the youngest child reaches majority.

175 (8) (a) After July 1, 2001, except as limited by Subsections (4) and (6), the recordation of  
176 a judgment from any district court in the state in the office of a county recorder as required in  
177 Section 78-5-119 becomes a lien upon any real property of the judgment debtor, located in the  
178 same county in which the judgment is recorded, owned or acquired during the existence of the  
179 judgment.

180 (b) The duration of a judgment recorded in the office of a county recorder shall run from

181 the time of registration in the district court under Subsection (1).

182 (9) (a) A judgment referred to in Subsection (8) shall be entered in the appropriate index  
183 in the office of the county recorder as required in Section 17-21-6.

184 (b) A judgment containing a legal description shall be abstracted in the appropriate tract  
185 index in the office of the county recorder.

186 Section 7. Section **78-22-1.5** is amended to read:

187 **78-22-1.5. Definitions -- Judgment recorded in Registry of Judgments.**

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

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

195 (3) On or after July 1, 2001, except as provided in Subsection 38-5-1(3), a judgment filed  
196 in a district court does not create a lien upon or affect the title to real property unless the judgment  
197 or an abstract of judgment is recorded in the office of the county recorder in which the real  
198 property of the judgment debtor is located.

199 [~~(3)~~] (4) In addition to the requirement of [~~Subsection~~] Subsections (2) and (3), any  
200 judgment that is [~~recorded~~] filed in the Registry of Judgments on or after September 1, 1998, or  
201 any judgment or abstract of judgment that is recorded in the office of a county recorder after July  
202 1, 2001, shall include [a] the information identifying the judgment debtor on the judgment or  
203 abstract of judgment or a copy of the separate information statement of the judgment creditor that  
204 contains:

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

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

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

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

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

212 expires.

213 [(4)] (5) For the information required in Subsection [(3)] (4), the judgment creditor shall:

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

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

219 [(5)] (6) (a) Any judgment that requires payment of money and is [~~recorded~~] filed in a  
220 district court on or after September 1, 1998, [~~and~~] or any judgment or abstract of judgment  
221 recorded in the office of a county recorder after July 1, 2001, that is not accompanied by the  
222 separate information statement as required in Subsections [(3)] (4) and [(4)] (5) may be amended  
223 by [~~recording~~] filing a document entitled "Amendment to [~~Recorded~~] Judgment" in the Registry  
224 of Judgments and in the office of a county recorder in compliance with Subsections [(3)] (4) and  
225 [(4)] (5).

226 (b) The amendment to [~~the recorded~~] a filed judgment shall state the date of [~~recording~~]  
227 entry of the original judgment in the Registry of Judgments. The amendment to a judgment  
228 recorded in the office of a county recorder shall state the time of recording, the entry number, and  
229 the book and page of the original judgment.

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

232 [(6)] (7) A judgment that requires payment of money recorded on or after September 1,  
233 1998, has as its priority the date of compliance with Subsections [(3)] (4) and [(4)] (5).

234 Section 8. Section **78-22a-5** is amended to read:

235 **78-22a-5. Lien.**

236 [(+)] A foreign judgment filed in a district court under this chapter becomes a lien as  
237 provided in Section 78-22-1 if:

238 (1) a stay of execution has not been granted[-];

239 (2) [~~H~~] the requirements of this chapter are satisfied[-, ~~the foreign judgment becomes a lien~~  
240 ~~upon~~]; and

241 (3) the judgment [~~debtor's property on the date it is docketed~~] is recorded in the office of  
242 the county recorder where the property of the judgment debtor is located, as provided in Section



243 78-22-1.

244 Section 9. **Effective date.**

245 This act takes effect on July 1, 2001.

246 Section 10. **Coordination clause.**

247 If this bill and H.B. 19, Fees Recodification, both pass, it is the intent of the Legislature that  
248 the Office of Legislative Research and General Counsel in preparing the Utah Code database for  
249 publication, shall renumber Section 21-7-2 in this bill as Section 63-38-3.3 and amend it to read:

250 "~~21-7-2~~ **63-38-3.3. Payment of fees prerequisite to service -- Exception.**

251 (1) (a) [~~The state~~] State and county officers [~~mentioned in this title~~] required by law to  
252 charge fees may not perform any official service unless the fees prescribed for that service are paid  
253 in advance.

254 (b) When the fee is paid, the officer shall perform the services required.

255 (c) An officer is liable upon [~~his~~] the officer's official bond for every failure or refusal to  
256 perform an official duty when the fees are tendered.

257 (2) Except as provided for payment of [~~filing~~] recording fees [~~of~~] for county and municipal  
258 improvement district [~~filings~~] recordings in compliance with Sections 17A-3-207 and 17A-3-307,  
259 and as provided for payment of recording fees for judgments recorded in compliance with Sections  
260 57-3-106 and 78-5-119, no fees may be charged:

261 (a) to the officer's state, or any county or subdivision of the state;

262 (b) to any public officer acting for the state, county, or subdivision;

263 (c) in cases of habeas corpus;

264 (d) in criminal causes before final judgment;

265 (e) for administering and certifying the oath of office;

266 (f) for swearing pensioners and their witnesses; or

267 (g) for filing and recording bonds of public officers."