

Senator L. Steven Poulton 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 or an abstract of a judgment 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

38-12-102 (Effective 07/01/01), as last amended by Chapter 252, Laws of Utah 2000

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

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

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



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

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

28 **21-7-2. Payment of fees prerequisite to service -- Exception.**

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

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

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

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

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

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

40 (c) in cases of habeas corpus;

41 (d) in criminal causes before final judgment;

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

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

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

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

46 **38-5-1. Filing with clerk of district court -- Recording with county recorder -- Effect.**

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

52 (2) Except as provided in Subsection (3), if a judgment or an abstract of judgment or
53 decree under Subsection (1) is recorded in the office of the county recorder, that judgment or
54 decree becomes a lien on the real property of the judgment debtor in that county owned or acquired
55 during the time the judgment is effective.

56 (3) State agencies are exempt from the recording requirement of Subsection (2).

57 Section 3. Section **38-12-102 (Effective 07/01/01)** is amended to read:

58 **38-12-102 (Effective 07/01/01). Notice requirements for lien filings -- Exceptions.**

59 (1) No later than 30 days after the day on which a lien claimant or the lien claimant's
60 authorized agent files for recordation a notice of lien meeting the requirements of Subsection (2)
61 with a county recorder, county clerk, or clerk of the court, a lien claimant or the lien claimant's
62 agent shall send by certified mail a written copy of the notice of lien to the last-known address of
63 the person against whom the notice of lien is filed.

64 (2) The notice of lien shall contain the following information:

65 (a) the name and address of the person against whom the lien is filed;

66 (b) (i) a statement that certain property owned by the person against whom the lien is filed
67 is subject to a lien;

68 (ii) the amount of the judgment, settlement, or compromise if the lien is based on a charge
69 against or interest in a judgment, settlement, or compromise; or

70 (iii) the amount of state taxes owed;

71 (c) the article number contained on the certified mail receipt;

72 (d) the date the notice of lien was filed; and

73 (e) the name and address of the lien claimant.

74 (3) The notice requirements of Subsections (1) and (2) do not apply to a:

75 (a) mechanics' lien as provided in Title 38, Chapter 1, Mechanics' Liens;

76 (b) lessors' lien as provided in Title 38, Chapter 3, Lessors' Liens;

77 (c) federal tax lien as provided in Title 38, Chapter 6, Federal Tax Liens;

78 (d) hospital lien as provided in Title 38, Chapter 7, Hospital Lien Law;

79 (e) self-service storage facilities lien as provided in Title 38, Chapter 8, Self-Service
80 Storage Facilities;

81 (f) oil, gas, or mining lien as provided in Title 38, Chapter 10, Oil, Gas, and Mining Liens;

82 (g) claim against the Residence Lien Recovery Fund as provided in Title 38, Chapter 11,
83 Residence Lien Restriction and Lien Recovery Fund Act;

84 (h) trust deed;

85 (i) mortgage;

86 (j) interests subject to a security agreement as defined in Section 70A-9a-102; [or]

87 (k) other liens subject to the same or stricter notice requirements than those imposed by

88 Subsections (1) and (2)~~[-]; or~~

89 (1) court judgment or abstract of a court judgment presented for recording in the office of
90 a county recorder.

91 Section 4. Section **57-3-106** is amended to read:

92 **57-3-106. Original documents required -- Captions -- Legibility.**

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

95 (i) be originals; and

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

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

99 (2) A court judgment or an abstract of a court judgment presented for recording in the
100 office of the county recorder in compliance with Section 78-22-1 shall:

101 (a) be an original or certified copy; and

102 (b) include the information identifying the judgment debtor as referred to in Subsection
103 78-22-1.5(4) either:

104 (i) in the judgment or abstract of judgment; or

105 (ii) as a separate information statement of the judgment creditor as referred to in
106 Subsection 78-22-1.5(5).

107 (3) Judgments, abstracts of judgments, and separate information statements of the
108 judgment creditor do not require an acknowledgment or a legal description to be recorded.

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

111 (5) Any document recorded in the office of the county recorder to release or assign a
112 judgment lien shall include:

113 (a) the name of any judgment creditor, debtor, assignor, or assignee;

114 (b) the date of recording; and

115 (c) the entry number of the instrument creating the judgment lien.

116 ~~[(2)]~~ (6) Documents presented for recording shall also be sufficiently legible for the
117 recorder to make certified copies.

118 ~~[(3)]~~ (7) (a) A document which is of record in the office of the appropriate county recorder

119 in compliance with this chapter may not be recorded again in that same county recorder's office
120 unless the original document has been reexecuted by all parties who executed the document.
121 Unless exempt by statute, original documents which are reexecuted must also contain the
122 appropriate acknowledgment, proof of execution, jurat or other notarial certification for all parties
123 who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act,
124 and Title 57, Chapter 2, Acknowledgments. Documents submitted for rerecording shall contain
125 a brief statement explaining the reason for rerecording.

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

128 (c) Subsection [~~(3) of this section~~] (7) applies only to documents executed after July 1,
129 1998.

130 [~~(4)~~] (8) Minor typographical or clerical errors in a document of record may be corrected
131 by the recording of an appropriate instrument.

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

133 **78-5-119. Judgment not a lien unless so recorded.**

134 (1) [~~A~~] Except as provided under Subsection (3), a judgment rendered in a justice court
135 does not create a lien upon any [~~lands~~] real property of the judgment debtor unless [~~an~~] the
136 judgment or abstract of the judgment:

137 (a) is [~~filed and docketed~~] recorded in the office of the [~~clerk of the district court~~] county
138 recorder of the county in which the [~~lands are~~] real property of the judgment debtor is located[-];
139 and

140 (b) contains the information identifying the judgment debtor as referred to in Subsection
141 78-22-1.5(4) either:

142 (i) in the judgment or abstract of judgment; or

143 (ii) as a separate information statement of the judgment creditor as referred to in
144 Subsection 78-22-1.5(5).

145 (2) [~~When filed and docketed, the judgment is a lien upon the real property of the~~
146 ~~judgment debtor that is not exempt from execution and is situated in that county]~~ The lien runs for
147 eight years from the date the judgment was entered in the district court under Section 78-22-1
148 unless the judgment is earlier satisfied.

149 (3) State agencies are exempt from the recording requirement of Subsection (1).

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

151 **78-22-1. Duration of judgment -- Judgment as a lien upon real property -- Abstract**
152 **of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support**
153 **orders.**

154 (1) Except as provided in Subsection (6), judgments shall continue for eight years from the
155 date of entry in a court unless previously satisfied or unless enforcement of the judgment is stayed
156 in accordance with law.

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

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

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

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

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

175 (6) Enforcement of a child support order may be pursued at any time within four years
176 after the date the youngest child reaches majority.

177 (7) (a) After September 1, 2001, a judgment entered by a district court or a justice court
178 in the state becomes a lien upon real property if:

179 (i) the judgment or an abstract of the judgment containing the information identifying the
180 judgment debtor as described in Subsection 78-22-1.5(4) is recorded in the office of the county

181 recorder; or

182 (ii) the judgment or an abstract of the judgment and a separate information statement of
183 the judgment creditor as described in Subsection 78-22-1.5(5) is recorded in the office of the
184 county recorder.

185 (b) The judgment shall run from the date of entry by the district court or justice court.

186 (c) The real property subject to the lien includes all the real property of the judgment
187 debtor:

188 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

189 (ii) owned or acquired at any time by the judgment debtor during the time the judgment
190 is effective.

191 (d) State agencies are exempt from the recording requirement of Subsection (7)(a).

192 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the
193 judgment debtor in the judgment index in the office of the county recorder as required in Section
194 17-21-6.

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

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

198 **78-22-1.5. Definitions -- Judgment recorded in Registry of Judgments.**

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

202 (2) On or after July 1, 1997, a judgment [~~rendered or recorded~~] entered in a district court
203 does not create a lien upon or affect the title to real property unless the judgment is [~~recorded~~] filed
204 in the Registry of Judgments of the office of the clerk of the district court of the county in which
205 the property is located.

206 (3) (a) On or after September 1, 2001, except as provided in Subsection (3)(b), a judgment
207 entered in a district court does not create a lien upon or affect the title to real property unless the
208 judgment or an abstract of judgment is recorded in the office of the county recorder in which the
209 real property of the judgment debtor is located.

210 (b) State agencies are exempt from the recording requirement of Subsection (3)(a).

211 [~~(3)~~] (4) In addition to the requirement of [Subsection] Subsections (2) and (3)(a), any

212 judgment that is ~~recorded~~ filed in the Registry of Judgments on or after September 1, 1998, or
 213 any judgment or abstract of judgment that is recorded in the office of a county recorder after
 214 September 1, 2001, shall include [a]:

215 (a) the information identifying the judgment debtor on the judgment or abstract of
 216 judgment; or

217 (b) a copy of the separate information statement of the judgment creditor that contains:

218 ~~(a)~~ (i) the correct name and last-known address of each judgment debtor and the address
 219 at which each judgment debtor received service of process;

220 ~~(b)~~ (ii) the name and address of the judgment creditor;

221 ~~(c)~~ (iii) the amount of the judgment as ~~entered~~ filed in the Registry of Judgments;

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

224 ~~(e)~~ (v) whether or not a stay of enforcement has been ordered by the court and the date
 225 the stay expires.

226 ~~(4)~~ (5) For the information required in Subsection ~~(3)~~ (4), the judgment creditor shall:

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

230 (b) state on the separate information statement that the information is unknown or
 231 unavailable.

232 ~~(5)~~ (6) (a) Any judgment that requires payment of money and is ~~recorded~~ entered in a

233 district court on or after September 1, 1998, ~~and is~~ or any judgment or abstract of judgment

234 recorded in the office of a county recorder after September 1, 2001, that does not ~~accompanied~~

235 by the separate include the debtor identifying information ~~statement~~ as required in ~~Subsections~~

236 ~~(3) and (4) may be amended by recording a document entitled "Amendment to Recorded~~

237 Judgment" in the Registry of Judgments Subsection (4) is not a lien until a separate information

238 statement of the judgment creditor is recorded in the office of a county recorder in compliance with

239 ~~Subsections (3) and (4)~~ Subsections (4) and (5).

240 ~~(b) The amendment to the recorded judgment shall state the date of recording the~~
 241 ~~original judgment in the Registry of Judgments.]~~

242 ~~(c) Recording an amendment to a recorded judgment has no effect on the computation~~

243 of time as provided in Section 78-22-1.]

244 (b) The separate information statement of the judgment creditor referred to in Subsection
245 (6)(a) shall include:

246 (i) the name of any judgment creditor, debtor, assignor, or assignee;

247 (ii) the date of recording; and

248 (iii) the entry number of the original judgment or abstract of judgment.

249 ~~[(6)]~~ (7) A judgment that requires payment of money recorded on or after September 1,
250 1998, but prior to September 1, 2001, has as its priority the date of [compliance with Subsections
251 (3) and (4)] entry.

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

253 **78-22a-5. Lien.**

254 (1) A foreign judgment ~~[filed]~~ entered in a district court under this chapter becomes a lien
255 as provided in Section 78-22-1 if:

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

257 ~~[(2) If]~~ (b) the requirements of this chapter are satisfied[-, the foreign]; and

258 (c) the judgment [becomes a lien upon the] is recorded in the office of the county recorder
259 where the property of the judgment [debtor's property on the date it is docketed] debtor is located,
260 as provided in Section 78-22-1.

261 (2) The lien becomes effective at the time and date of recording.

262 Section 9. **Effective date.**

263 This act takes effect on September 1, 2001.

264 Section 10. **Coordination clause.**

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

268 "[21-7-2] 63-38-3.3. Payment of fees prerequisite to service -- Exception.

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

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

273 (c) An officer is liable upon ~~[his]~~ the officer's official bond for every failure or refusal to

274 perform an official duty when the fees are tendered.

275 (2) Except as provided for payment of [~~filing~~] recording fees [~~of~~] for county and municipal
276 improvement district [~~filings~~] recordings in compliance with Sections 17A-3-207 and 17A-3-307,
277 and as provided for payment of recording fees for judgments recorded in compliance with Sections
278 57-3-106 and 78-5-119, no fees may be charged:

- 279 (a) to the officer's state, or any county or subdivision of the state;
- 280 (b) to any public officer acting for the state, county, or subdivision;
- 281 (c) in cases of habeas corpus;
- 282 (d) in criminal causes before final judgment;
- 283 (e) for administering and certifying the oath of office;
- 284 (f) for swearing pensioners and their witnesses; or
- 285 (g) for filing and recording bonds of public officers."