

## CHAPTER 2023-300

### Committee Substitute for House Bill No. 27

An act relating to judgment liens; providing a short title; amending s. 55.202, F.S.; specifying that payment intangibles, accounts, and the proceeds thereof are subject to judgment liens; providing construction; amending s. 55.205, F.S.; deleting a provision specifying the priority of certain judgment creditor liens; specifying the validity and enforceability of judgment liens against motor vehicles and vessels; providing a procedure for noting the lien on the certificate of title; specifying restrictions on the enforcement of judgment liens; specifying an account debtor's authority to discharge the account debtor's obligation to pay payment intangibles, accounts, or the proceeds thereof; amending s. 55.208, F.S.; providing construction relating to the effect of liens existing before a specified date on payment intangibles and accounts and the proceeds thereof; deleting an obsolete provision relating to judgment liens on writs of execution previously delivered to a sheriff; amending s. 55.209, F.S.; conforming a cross-reference; amending s. 56.29, F.S.; requiring a court, under certain circumstances, to order the Department of Highway Safety and Motor Vehicles to note certain liens on the certificate of title of certain motor vehicles or vessels and in the department's records; amending s. 319.24, F.S.; prohibiting the department from issuing a motor vehicle certificate of title under certain circumstances; specifying procedures for a judgment lienholder to place a lien on motor vehicles or vessels; revising requirements for the department if a certificate of title is not forwarded or returned to the department under certain circumstances; revising the authority of certain persons to demand and receive a lien satisfaction; requiring a lienholder to enter a satisfaction in a certificate of title upon satisfaction or lapse of a judgment lien; amending s. 319.241, F.S.; revising circumstances under which the department may not remove a lien from the department's records or a certificate of title and specifying a requirement for the department; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Judgment Lien Improvement Act."

Section 2. Subsections (2) and (5) of section 55.202, Florida Statutes, are amended to read:

55.202 Judgments, orders, and decrees; lien on personal property.—

(2) A judgment lien may be acquired on a judgment debtor's interest in all personal property in this state subject to execution under s. 56.061, including payment intangibles and accounts, as those terms are defined in s. 679.1021(1), and the proceeds thereof, but excluding other than fixtures, money, negotiable instruments, and mortgages.

(a) For payment intangibles and accounts and the proceeds thereof.

1. The rights of a judgment lienholder under this section are subject to the rights under chapter 679 of a secured party, as defined in s. 679.1021(1), who has a prior filed financing statement encumbering such payment intangibles or accounts and the proceeds thereof.

2. This section does not affect the obligation under s. 679.607(1) of an account debtor, as defined in s. 679.1021(1), except as the rights and obligations under this paragraph are otherwise adjudicated under applicable law in a legal proceeding to which the secured party and account debtor are joined as parties.

(b) A judgment lien is acquired by filing a judgment lien certificate in accordance with s. 55.203 with the Department of State after the judgment has become final and if the time to move for rehearing has lapsed, no motion for rehearing is pending, and no stay of the judgment or its enforcement is then in effect. A court may authorize, for cause shown, the filing of a judgment lien certificate before a judgment has become final when the court has authorized the issuance of a writ of execution in the same matter. A judgment lien certificate not filed in compliance with this subsection is permanently void and of no effect.

~~(c)~~(b) For any lien, warrant, assessment, or judgment collected by the Department of Revenue, a judgment lien may be acquired by filing the judgment lien certificate information or warrant with the Department of State in accordance with subsection (5).

~~(d)~~(e) Except as provided in s. 55.208, the effective date of a judgment lien is the date, including the time of day, of filing. Although no lien attaches to property, and a creditor does not become a lien creditor as to liens under chapter 679, until the debtor acquires an interest in the property, priority among competing judgment liens is determined in order of filing date and time.

~~(e)~~(d) Except as provided in s. 55.204(3), a judgment creditor may file only one effective judgment lien certificate based upon a particular judgment.

(5) Liens, assessments, warrants, or judgments filed pursuant to paragraph ~~(2)(c)~~ ~~(2)(b)~~ may be filed directly into the central database by the Department of Revenue, or its designee as determined by its executive director, through electronic or information data exchange programs approved by the Department of State. Such filings must contain the information set forth in s. 55.203(1).

Section 3. Subsection (1) of section 55.205, Florida Statutes, is amended, and subsections (5), (6), and (7) are added to that section, to read:

55.205 Effect of judgment lien.—

(1) A judgment creditor who has not acquired a judgment lien as provided in s. 55.202 or whose lien has lapsed may nevertheless proceed against the judgment debtor's property through any appropriate judicial process. Such judgment creditor proceeding by writ of execution acquires a lien as of the time of levy and only on the property levied upon. ~~Except as provided in s. 55.208, such judgment creditor takes subject to the claims and interest of priority judgment creditors.~~

(5)(a) If the judgment debtor's personal property, to the extent not exempt from execution, includes a motor vehicle or a vessel for which a Florida certificate of title has been issued, a judgment lien acquired under this section on such property not yet noted on the certificate of title is valid and enforceable against the judgment debtor. However, enforceability under this chapter of such judgment lien against creditors or subsequent purchasers is determined as provided under s. 319.27(2) or s. 328.14, as applicable.

(b) A judgment lienholder may obtain an order instructing the Department of Highway Safety and Motor Vehicles to note the lien on the certificate of title through a court of competent jurisdiction conducting proceedings supplementary to execution under s. 56.29(6)(b).

(6) A judgment lien acquired under s. 55.202 may be enforced only through judicial process, including attachment under chapter 76; execution under chapter 56; garnishment under chapter 77; a charging order under s. 605.0503, s. 620.1703, or s. 620.8504; or proceedings supplementary to execution under s. 56.29. A holder of a judgment lien acquired under s. 55.202, who is not enforcing separate lien rights in a judgment debtor's property, may not enforce his or her rights under this section through self-help repossession or replevin without a court order or without the express consent of the judgment debtor contained in a record authenticated in accordance with s. 668.50 or s. 679.1021(1)(g) after the judgment lien attaches.

(7) Notwithstanding the attachment of a judgment lien acquired under s. 55.202 to payment intangibles or accounts and the proceeds thereof, the account debtor may, absent receipt of notice under s. 679.607(1)(a) from a secured party, discharge the account debtor's obligation to pay payment intangibles or accounts or the proceeds thereof by paying the judgment debtor until, but not after, the account debtor is served by process with a complaint or petition by the judgment creditor seeking judicial relief with respect to the payment intangibles or accounts. Thereafter, the account debtor may discharge the account debtor's obligation to pay payment intangibles or accounts or the proceeds thereof under this section only in accordance with a final order or judgment issued in such judicial process that complies with this section.

Section 4. Section 55.208, Florida Statutes, is amended to read:

55.208 Effect of prior liens on payment intangibles and accounts; effect of filed judgment lien on writs of execution previously delivered to a sheriff.

(1) A judgment lien under s. 55.202 existing before October 1, 2023, becomes enforceable and perfected as of October 1, 2023, as to payment intangibles and accounts and the proceeds thereof of a judgment debtor under s. 55.202(2). Any security interest or lien on payment intangibles or accounts and the proceeds thereof of a judgment debtor which is enforceable and perfected before October 1, 2023, continues to have the same rights and priority as existed before October 1, 2023, and may not be primed as to payment intangibles or accounts by a judgment lien certificate filed before October 1, 2023.

~~(1) Any lien created by a writ of execution which has been delivered to the sheriff of any county before October 1, 2001, remains in effect for 2 years thereafter as to any property of the judgment debtor located in that county before October 1, 2001, and remaining within that county after that date. As to any property of the judgment debtor brought into the county on or after October 1, 2001, such writs create no lien, inchoate or otherwise.~~

(2) If a judgment creditor who has delivered a writ of execution to a sheriff in any county prior to October 1, 2001, properly files a judgment lien certificate with the Department of State by October 1, 2003, the resulting judgment lien is deemed filed on the date the writ was delivered to the sheriff as to all property of the judgment debtor subject to execution in this state under s. 56.061 which is located in that county on October 1, 2001, and that remains continuously in that county thereafter. Priority of such judgment liens is determined as of the effective date they are considered to have been filed. As to all other property of the judgment debtor, the effective date of the judgment lien is as provided in s. 55.202. The duration of all judgment liens is as provided in s. 55.204.

(3) If a judgment creditor who has delivered a writ of execution to a sheriff in any county before October 1, 2001, does not properly file a judgment lien certificate with the Department of State by October 1, 2003, such writ is considered to have been abandoned and to be of no effect after October 1, 2003.

Section 5. Subsection (1) of section 55.209, Florida Statutes, is amended to read:

55.209 Department of State; processing fees, responsibilities.—

(1) Except for liens, assessments, warrants, or judgments filed electronically as provided in s. 55.202(2)(c) ~~s. 55.202(2)(b)~~, the Department of State shall collect the following nonrefundable processing fees for all documents filed in accordance with ss. 55.201-55.209:

(a) For any judgment lien certificate or other documents permitted to be filed, \$20.

(b) For the certification of any filed document, \$10.

(c) For copies of judgment lien documents which are produced by the Department of State, \$1 per page or part thereof. However, no charge may be collected for copies provided in an online electronic format via the Internet.

(d) For indexing a judgment lien by multiple judgment debtor names, \$5 per additional name.

(e) For each additional facing page attached to a judgment lien certificate or document permitted to be filed, \$5.

Section 6. Subsection (6) of section 56.29, Florida Statutes, is amended to read:

56.29 Proceedings supplementary.—

(6)(a) The court may order any property of the judgment debtor, not exempt from execution, or any property, debt, or other obligation due to the judgment debtor, in the hands of or under the control of any person subject to the Notice to Appear, to be levied upon and applied toward the satisfaction of the judgment debt. The court may enter any orders, judgments, or writs required to carry out the purpose of this section, including those orders necessary or proper to subject property or property rights of any judgment debtor to execution, and including entry of money judgments as provided in ss. 56.16-56.19 against any person to whom a Notice to Appear has been directed and over whom the court obtained personal jurisdiction irrespective of whether such person has retained the property, subject to applicable principles of equity, and in accordance with chapters 76 and 77 and all applicable rules of civil procedure. Sections 56.16-56.20 apply to any order issued under this subsection.

(b) If the personal property of the judgment debtor includes a motor vehicle or vessel that is nonexempt to any extent from execution and for which a Florida certificate of title has been issued, upon presentation of a copy of a valid judgment lien certificate acquired under s. 55.202, the court must order the Department of Highway Safety and Motor Vehicles to note the liens of the judgment creditor on the certificate of title and in the records of the department.

Section 7. Subsections (2) and (4) and paragraphs (a) and (b) of subsection (5) of section 319.24, Florida Statutes, are amended to read:

319.24 Issuance in duplicate; delivery; liens and encumbrances.—

(2) A duly authorized person shall sign the original certificate of title and each corrected certificate and, if there are no liens or encumbrances on the motor vehicle or mobile home, as shown in the records of the department or as shown in the application, shall deliver the certificate to the applicant or to another person as directed by the applicant or person, agent, or attorney submitting such application. The motor vehicle dealer license number must

be submitted to the department when a dealer applies for or receives a duplicate title. The current odometer reading must be submitted on an application for a duplicate title. If there are one or more liens or encumbrances on the motor vehicle or mobile home, the certificate shall be delivered by the department to the first lienholder as shown by department records or to the owner as indicated in the notice of lien filed by the first lienholder pursuant to s. 319.27. If the notice of lien filed by the first lienholder indicates that the certificate should be delivered to the first lienholder, the department shall deliver to the first lienholder, along with the certificate, a form to be subsequently used by the lienholder as a satisfaction. If the notice of lien filed by the first lienholder directs the certificate of title to be delivered to the owner, then, upon delivery of the certificate of title by the department to the owner, the department shall deliver to the first lienholder confirmation of the receipt of the notice of lien and the date the certificate of title was issued to the owner at the owner's address shown on the notice of lien and a form to be subsequently used by the lienholder as a satisfaction. If the application for certificate shows the name of a first lienholder different from the name of the first lienholder as shown by the records of the department or, if the application does not show the name of a judgment lienholder as shown by the records of the department, the certificate shall not be issued to any person until after all parties who appear to hold a lien and the applicant for the certificate have been notified of the conflict in writing by the department by certified mail. If the parties do not amicably resolve the conflict within 10 days from the date such notice was mailed, then the department shall serve notice in writing by certified mail on all persons appearing to hold liens on that particular vehicle, including the applicant for the certificate, to show cause within 15 days from the date the notice is mailed why it should not issue and deliver the certificate to the person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder without showing any lien or liens as outstanding other than those appearing in the application or those which may have been filed subsequent to the filing of the application for the certificate. If, within the 15-day period, any person other than the lienholder shown in the application or a party filing a subsequent lien, in answer to such notice to show cause, appears in person or by a representative, or responds in writing, and files a written statement under oath that his or her lien on that particular vehicle is still outstanding, the department shall not issue the certificate to anyone until after such conflict has been settled by the lien claimants involved or by a court of competent jurisdiction. If the conflict is not settled amicably within 10 days of the final date for filing an answer to the notice to show cause, the complaining party shall have 10 days to obtain a ruling, or a stay order, from a court of competent jurisdiction; if no ruling or stay order is issued and served on the department within the 10-day period, it shall issue the certificate showing no liens except those shown in the application or thereafter filed to the original applicant if there are no liens shown in the application and none are thereafter filed, or to the person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder if there are liens shown in the application or thereafter filed. A duplicate

certificate or corrected certificate shall only show such lien or liens as were shown in the application and subsequently filed liens that may be outstanding.

(4)(a)1. If the owner of the motor vehicle or mobile home, as shown on the title certificate, or the director of the state child support enforcement program, or the director's designee, desires to place a second or subsequent lien or encumbrance against the motor vehicle or mobile home when the title certificate is in the possession of the first lienholder, the owner shall send a written request to the first lienholder by certified mail, and such first lienholder shall forward the certificate to the department for endorsement. If the title certificate is in the possession of the owner, the owner shall forward the certificate to the department for endorsement.

2. If the holder of a judgment lien acquired under s. 55.202(2) on personal property of the owner desires to place a lien on the motor vehicle or a vessel, the judgment lienholder must send a written request to the department together with a copy of the lienholder's judgment lien certificate. The department shall add the name of the judgment lienholder to the records of the department. The judgment lienholder must also send a written request to the person in possession of the title certificate by certified mail, and that person shall forward the certificate to the department for endorsement.

(b) The department shall return the certificate to either the first lienholder or to the owner, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder or owner fails, neglects, or refuses to forward the certificate of title to the department within 10 days ~~after~~ from the date of the owner's, ~~the judgment lienholder's,~~ or the director's or designee's request, the department, on the written request of the subsequent lienholder or an assignee thereof, shall demand of the first lienholder or the owner the return of such certificate for the notation of the second or subsequent lien or encumbrance. If the first lienholder or owner fails, neglects, or refuses to return the certificate to the department as requested, the department must void the certificate of title and issue a replacement certificate showing the notation of the subsequent lien or encumbrance.

(5)(a) Upon satisfaction of any first lien, judgment lien, or encumbrance recorded at the department or upon lapse of a judgment lien, the owner of the motor vehicle or mobile home, as shown on the title certificate, or the person satisfying the lien ~~is shall be~~ entitled to demand and receive from the lienholder a satisfaction of the lien. If the lienholder, upon satisfaction of the lien and upon demand, fails or refuses to furnish a satisfaction thereof within 30 days after demand, he or she shall be held liable for all costs, damages, and expenses, including reasonable attorney ~~attorney's~~ fees, lawfully incurred by the titled owner or person satisfying the lien in any suit brought in this state for cancellation of the lien. A motor vehicle dealer acquiring ownership of a motor vehicle with an outstanding purchase money lien, shall pay and satisfy the outstanding lien within 10 working days of

acquiring ownership. The lienholder receiving final payment as defined in s. 674.215 shall mail or otherwise deliver a lien satisfaction and the certificate of title indicating the satisfaction within 10 working days of receipt of such final payment or notify the person satisfying the lien that the title is not available within 10 working days of receipt of such final payment. If the lienholder is unable to provide the certificate of title and notifies the person of such, the lienholder shall provide a lien satisfaction and shall be responsible for the cost of a duplicate title, including fast title charges as provided in s. 319.323. The provisions of this paragraph shall not apply to electronic transactions pursuant to subsection (9).

(b) Following satisfaction of a lien or upon satisfaction or lapse of a judgment lien, the lienholder shall enter a satisfaction thereof in the space provided on the face of the certificate of title. If the certificate of title was retained by the owner, the owner shall, within 5 days of the satisfaction of a lien, deliver the certificate of title to the lienholder and the lienholder shall enter a satisfaction thereof in the space provided on the face of the certificate of title. If there are no subsequent liens shown thereon, the certificate shall be delivered by the lienholder to the person satisfying the lien or encumbrance and an executed satisfaction on a form provided by the department shall be forwarded to the department by the lienholder within 10 days of satisfaction of the lien.

Section 8. Section 319.241, Florida Statutes, is amended to read:

319.241 Removal of lien from records.—The owner of a motor vehicle or mobile home upon which a lien has been filed with the department or noted upon a certificate of title for a period of 5 years may apply to the department in writing for such lien to be removed from the department files or from the certificate of title. The application shall be accompanied by evidence satisfactory to the department that the applicant has notified the lienholder by certified mail, not less than 20 days prior to the date of the application, of his or her intention to apply to the department for removal of the lien. Ten days after receipt of the application, the department may remove the lien from its files or from the certificate of title, as the case may be, if no statement in writing protesting removal of the lien is received by the department from the lienholder within the 10-day period. If, however, the lienholder files with the department within the 10-day period a written statement that the lien is still outstanding or that a second judgment lien certificate has been filed with the Department of State, the department shall not remove the lien until the lienholder presents a satisfaction of lien to the department. If a second judgment lien certificate was filed with the Department of State, the department must remove the notice of the first judgment lien certificate and add notation of the second judgment lien certificate at the end of all noted liens. Ten days after the receipt of an application for a derelict motor vehicle certificate and notification to the lienholder, the department may remove the lien from the derelict motor vehicle record if a written statement protesting removal of the lien is not received by the department from the lienholder within the 10-day period.



Section 9. This act shall take effect July 1, 2023.

Approved by the Governor June 27, 2023.

Filed in Office Secretary of State June 27, 2023.