

1 A bill to be entitled

2 An act amending s.319.24(2), (4), (5) and 319.241. F.S. to
3 permit the holder of a judgment lien on a motor vehicle,
4 mobile home, or vessel to request the Department of Highway
5 Safety and Motor Vehicles to note its judgment lien on the
6 motor vehicle's, mobile home's, or vessel's certificate of
7 title; to permit the owner to demand a satisfaction of lien
8 from the lienholder when the lien is satisfied or lapsed; to
9 permit the owner to apply to the department for removal of
10 the lien that has been filed with the department or noted on
11 the certificate of title for a period of 5 years unless a
12 second judgment certificate lien has been filed, in which
13 case the department shall remove notice of the first lien and
14 note the second lien at the end of all noted liens; adding
15 subsection (5) to s. 55.205 F.S. to clarify the effect of a
16 certificate of title on a judgment lien; and informing a
17 judgment lien holder that it may obtain a court order
18 instructing the department to note its lien on the certificate
19 of title through proceedings supplementary; renumbering s.
20 56.29(6) F.S. as 56.29(6)(a) F.S. and adding subsection
21 56.29(6)(b) making clear that on presentation of a valid
22 judgment lien certificate in proceedings supplementary the
23 court shall issue such order; amending s.55.202(2) F.S.
24 expanding the reach of a judgment lien to include all payment
25 intangibles and accounts of a judgment debtor located in this
26 state; and adding subsection 55.205(6) making clear that a

27 judgment lien may be enforced only through judicial process,
28 and may not be enforced through self-help repossession or
29 replevin without the express consent of the judgment debtor.

30 Be it enacted by the Legislature of the State of Florida:

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

33 Section 2. Subsection 319.24(2) F.S. is amended to read:

34 (2) A duly authorized person shall sign the original
35 certificate of title and each corrected certificate and, if
36 there are no liens or encumbrances on the motor vehicle or
37 mobile home, as shown in the records of the department or as
38 shown in the application, shall deliver the certificate to
39 the applicant or to another person as directed by the
40 applicant or person, agent, or attorney submitting such
41 application. The motor vehicle dealer license number must be
42 submitted to the department when a dealer applies for or
43 receives a duplicate title. The current odometer reading must
44 be submitted on an application for a duplicate title. If there
45 are one or more liens or encumbrances on the motor vehicle or
46 mobile home, the certificate shall be delivered by the
47 department to the first lienholder as shown by department
48 records or to the owner as indicated in the notice of lien
49 filed by the first lienholder pursuant to s.319.27. If the
50 notice of lien filed by the first lienholder indicates that
51 the certificate should be delivered to the first lienholder,

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52 the department shall deliver to the first lienholder, along
53 with the certificate, a form to be subsequently used by the
54 lienholder as satisfaction. If the notice of lien filed by
55 the first lienholder directs the certificate of title to be
56 delivered to the owner, then, upon delivery of the certificate
57 of title by the department to the owner, the department shall
58 deliver to the first lienholder confirmation of the receipt
59 of the notice of lien and the date the certificate of title
60 was issued to the owner at the owner's address shown on the
61 notice of lien and a form to be subsequently used by the
62 lienholder as a satisfaction. If the application for
63 certificate shows the name of a first lienholder different
64 from the name of the first lienholder as shown by the records
65 of the department, or if the application does not show the
66 name of a judgment lien holder as shown by the records of the
67 department, the certificate shall not be issued to any person
68 until after all parties who appear to hold a lien and the
69 applicant for the certificate have been notified of the
70 conflict in writing by the department by certified mail. If
71 the parties do not amicably resolve the conflict within 10
72 days from the date such notice was mailed, then the department
73 shall serve notice in writing by certified mail on all persons
74 appearing to hold liens on that particular vehicle, including
75 the applicant for the certificate, to show cause within 15
76 days from the date the notice is mailed why it should not

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77 issue and deliver the certificate to the person indicated in
78 the notice of lien filed by the lienholder whose name appears
79 in the application as the first lienholder without showing
80 any lien or liens as outstanding other than those appearing
81 in the application or those which may have been filed
82 subsequent to the filing of the application for the
83 certificate. If, within the 15-day period, any person other
84 than the lienholder shown in the application or a party filing
85 a subsequent lien, in answer to such notice to show cause,
86 appears in person or by a representative, or responds in
87 writing, and files a written statement under oath that his or
88 her lien on that particular vehicle is still outstanding, the
89 department shall not issue the certificate to anyone until
90 after such conflict has been settled by the lien claimants
91 involved or by a court of competent jurisdiction. If the
92 conflict is not settled amicably within 10 days of the final
93 date for filing an answer to the notice to show cause, the
94 complaining party shall have 10 days to obtain a ruling, or
95 a stay order, from a court of competent jurisdiction; if no
96 ruling or stay order is issued and served on the department
97 within the 10-day period, it shall issue the certificate
98 showing no liens except those shown in the application or
99 thereafter filed to the original applicant if there are no
100 liens shown in the application and none are thereafter filed,
101 or to the person indicated in the notice of lien filed by the

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102 lienholder whose name appears in the application as the first
103 lienholder if there are liens shown in the application or
104 thereafter filed. A duplicate certificate or corrected
105 certificate shall only show such lien or liens as were shown
106 in the application and subsequently filed liens that may be
107 outstanding.

108 Section 3. Subsection 319.24(4) Florida Statutes is
109 amended to read:

110 (4) If the owner of the motor vehicle or mobile home,
111 as shown on the title certificate, or the director of the
112 state child support enforcement program, or the director's
113 designee, desires to place a second or subsequent lien or
114 encumbrance against the motor vehicle or mobile home when the
115 title certificate is in the possession of the first
116 lienholder, the owner shall send a written request to the
117 first lienholder by certified mail, and such first lienholder
118 shall forward the certificate to the department for
119 endorsement. If the title certificate is in the possession of
120 the owner, the owner shall forward the certificate to the
121 department for endorsement. If the holder of a judgment lien
122 on personal property of the owner acquired under s. 55.202(2)
123 Florida Statutes desires to place a lien on the motor vehicle,
124 mobile home, or vessel, the judgment lien holder shall send
125 a written request to the department together with a copy of
126 the lien holder's valid judgment lien certificate. The

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127 department shall add the name of the judgment lien holder to
128 the records of the department. The judgment lien holder shall
129 also send a written request to the person in the possession
130 of the title certificate by certified mail and that person
131 shall forward the certificate to the department for
132 endorsement. The department shall return the certificate to
133 either the first lienholder or to the owner, as indicated in
134 the notice of lien filed by the first lienholder, after
135 endorsing the second or subsequent lien on the certificate
136 and on the duplicate. If the first lienholder or owner fails,
137 neglects, or refuses to forward the certificate of title to
138 the department within 10 days from the date of the owners's,
139 the judgment lien holder's, or the director's designee's
140 request, the department, on the written request of the
141 subsequent lienholder or an assignee thereof, shall demand of
142 the first lienholder or the owner the return of such
143 certificate for the notation of the second or subsequent lien
144 or encumbrance. If the first lien holder or owner fails,
145 neglects, or refuses to return the certificate to the
146 department as requested, the department shall void the
147 certificate of title and issue a replacement certificate
148 showing the notation of the subsequent lien or encumbrance.

149 Section 4. Subsections 319.24(5)(a) and (b) Florida
150 Statutes shall be amended to read:

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151 (5) (a) Upon satisfaction of any first lien, judgment lien or
152 encumbrance recorded at the department, or upon lapse of a
153 judgment lien, the owner of the motor vehicle or mobile home,
154 as shown on the title certificate, or the person satisfying
155 the lien shall be entitled to demand and receive from the
156 lienholder a satisfaction of the lien. If the lienholder,
157 upon satisfaction of the lien and upon demand, fails or
158 refuses to furnish a satisfaction thereof within 30 days after
159 demand, he or she shall be held liable for all costs, damages,
160 and expenses including reasonable attorney's fees, lawfully
161 incurred by the title owner or person satisfying the lien in
162 any suit brought in this state for cancellation of the lien.
163 A motor vehicle dealer acquiring ownership of a motor vehicle
164 with an outstanding purchase money lien, shall pay and satisfy
165 the outstanding lien within 10 working days of acquiring
166 ownership. The lienholder receiving the final payment as
167 defined in s.674.215 shall mail or otherwise deliver a lien
168 satisfaction and the certificate of title indicating the
169 satisfaction within 10 working days or receipt of such final
170 payment or notify the person satisfying the lien that the
171 title is not available within 10 working days of receipt of
172 such final payment. If the lienholder is unable to provide
173 the certificate of title and notifies the person of such, the
174 lienholder shall provide a lien satisfaction and shall be
175 responsible for the cost of a duplicate title, including fast

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176 title charges as provided in s.319.323. The provisions of
177 this paragraph shall not apply to electronic transactions
178 pursuant to subsection (9).

179 (b) Following satisfaction of a lien, or upon satisfaction or
180 lapse of a judgment lien, the lienholder shall enter a
181 satisfaction thereof in the space provided on the face of the
182 certificate of title. If the certificate of title was retained
183 by the owner, the owner shall, within 5 days of the
184 satisfaction of a lien, deliver the certificate of the title
185 to the lienholder and lienholder shall enter a satisfaction
186 thereof in the space provided on the face of the certificate
187 of title. If there are no subsequent liens shown thereon, the
188 certificate shall be delivered by the lienholder to the person
189 satisfying the lien or encumbrance and an executed
190 satisfaction on a form provided by the department shall be
191 forwarded to the department by the lienholder within 10 days
192 of satisfaction of the lien.

193 Section 5. Section 319.241 Florida Status shall be
194 amended to read: The owner of a motor vehicle or mobile home
195 upon which a lien has been filed with the department or noted
196 upon a certificate of title for a period of 5 years may apply
197 to the department in writing for such lien to be removed from
198 the department files or from the certificate of title. The
199 application shall be accompanied by evidence satisfactory to
200 the department that the applicant has notified the lienholder

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201 by certified mail, not less than 20 days prior to the date of
202 the application, of his or her intention to apply to the
203 department for removal of the lien. Ten days after receipt of
204 the application, the department may remove the lien from its
205 files or from the certificate of title, as the case may be,
206 if no statement in writing protesting removal of the lien is
207 received by the department from the lienholder within the 10-
208 day period. If, however, the lienholder files with the
209 department within the 10-day period a written statement that
210 the lien is still outstanding, or that a second judgment lien
211 certificate has been filed with the Department of State, the
212 department shall not remove the lien until the owner presents
213 a satisfaction of lien to the department. If a second judgment
214 lien certificate has been filed with the Department of State,
215 the department shall remove the notice of the first judgment
216 lien certificate and note at the end of all noted liens
217 notation of the second judgment lien certificate. Ten days
218 after the receipt of an application for a derelict motor
219 vehicle certificate and notification to the lienholder, the
220 department may remove the lien from the derelict motor vehicle
221 record if a written statement protesting removal of the lien
222 is not received by the department from the lienholder within
223 the 10-day period.

224 Section 6. Subsection (1) of Section 55.205 Florida

225 Statutes is amended to read:

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

235 Section 7. Subsection (5) shall be added to Section
236 55.205 Florida Statutes to Read:

237 (5) (a) Motor Vehicles, Mobile Homes and Vessels. If the
238 personal property of the judgment debtor, to the extent not
239 exempt from execution, includes a motor vehicle, mobile home,
240 or vessel for which a Florida certificate of title has been
241 issued, a judgment lien acquired under this section on such
242 property not yet noted on the certificate of title is valid
243 and enforceable against the judgment debtor, but such a
244 judgment lien is not enforceable against creditors or
245 subsequent purchasers of such property for valuable
246 consideration whose interests have been noted on the
247 certificate of title as provided in s. 319.27.

248 (b) A judgment lien holder may obtain an order
249 instructing the Department of Highway Safety and Motor
250 Vehicles to note the lien on the certificate of title through

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251 a court of competent jurisdiction conducting Proceedings
252 Supplementary under s. 56.29(6) (b).

253 Section 8. Subsection 56.29(6), Florida Statutes, shall
254 be renumbered 56.29(6) (a) and Subsection 56.29(6) (b) shall be
255 added to read:

256 (b) If the personal property of the judgment debtor includes
257 a motor vehicle, a mobile home, or a vessel that is to any
258 extent nonexempt from execution and for which a Florida
259 certificate of title has been issued, on presentation of a
260 copy of a valid judgment lien certificate acquired under s.
261 55.202 Florida Statutes, the court shall order the Department
262 of Highway Safety and Motor Vehicles to note the liens of the
263 judgment creditor on the certificate of title and in the
264 records of the department.

265 Section 9. Subsection 55.202(2), Florida Statutes, shall
266 be amended to read:

267 (2) A judgment lien may be acquired on a judgment
268 debtor's interest in all personal property in this state
269 subject to the execution under s. 56.061, other than fixtures,
270 money, negotiable instruments, and mortgages, and on payment
271 intangibles and accounts and the proceeds thereof as defined
272 in chapter 679 of a judgment debtor that is located in this
273 state as defined in s. 679.3071; provided, however, (i) the
274 rights of the holder of a judgment lien under this section
275 are subject to the rights under chapter 679, of a secured

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276 party as defined in s. 679.1021(ttt) that has a prior filed
277 financing statement encumbering said accounts or payment
278 intangibles and the proceeds thereof, and (iii) nothing in
279 this section affects the obligation under s. 679.607(1) of an
280 account debtor as defined in s. 679.1021(c), except as such
281 rights or obligations in (i) or (ii) above are otherwise
282 adjudicated under applicable law in a legal proceeding to
283 which the secured party and account debtor are joined as
284 parties.

285 Section 10. Subsection (6) shall be added to Section
286 55.205 to read:

287 A judgment lien acquired under s. 55.202 may be enforced only
288 through judicial process such as attachment (Ch. 76),
289 execution (Ch. 56), garnishment (Ch. 77), charging order (ss.
290 605.503, 620.1703, and 620.8504), and proceedings
291 supplementary to execution (s. 56.29). The holders of a
292 judgment lien acquired under this chapter may not enforce its
293 rights authorized by this section through self-help
294 repossession or replevin without the express consent of the
295 judgment debtor in a record authenticated after default.

296 Section 11. Subsection (7) shall be added to Section
297 55.205 to read:

298 Notwithstanding the attachment of a judgment lien acquired
299 under s. 55.202 to payment intangibles or accounts and the
300 proceeds thereof, the account debtor may, absent receipt of

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301 notice under s. 679.607(1) (a) from a secured party, discharge
302 its obligation to pay accounts or payment intangibles or the
303 proceeds thereof by paying the judgment debtor until, but not
304 after, the account debtor is served by process with a
305 complaint or petition by the judgment creditor seeking
306 judicial relief with respect to the accounts or payment
307 intangibles. Thereafter, the account debtor may discharge its
308 obligation to pay accounts or payment intangibles or proceeds
309 thereof under this section only in accordance with a final
310 order or judgment issued in such judicial process that
311 complies with this section.

312 Section 12. Section 55.208, Florida Statutes shall be
313 amended to read:

314 ~~(1) Any lien created by a writ of execution which has been~~
315 ~~delivered to the sheriff of any county before October~~
316 ~~1, 2001, remains in effect for 2 years thereafter as to~~
317 ~~any property of the judgment debtor located in that~~
318 ~~county before October 1, 2011, and remaining within that~~
319 ~~county after that date. As to any property of the~~
320 ~~judgment debtor brought into the county on or after~~
321 ~~October 1, 2001, such writs create no lien, inchoate or~~
322 ~~otherwise.~~

323 Effect of prior liens on accounts and payment intangibles -

324 (1) A judgment lien under s. 55.202 existing before October
325 1, 2022 becomes enforceable and perfected as to accounts

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326 and payment intangibles of a judgment debtor under s.
327 55.202(2) or the proceeds thereof as of 12:01 a.m. on
328 October 1, 2022. Any security interest or lien on
329 accounts or payment intangibles of a judgment debtor or
330 the proceeds thereof that is enforceable and perfected
331 before October 1, 2022 shall continue to have the same
332 rights and priority as existed before October 1, 2022
333 and shall not be primed as to accounts or payment
334 intangibles or the proceeds thereof by a judgment lien
335 certificate filed prior to October 1, 2022.
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