

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2867

By: Shelton

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6
7 COMMITTEE SUBSTITUTE

8 An Act relating to filing fees; amending 12 O.S.
9 2001, Section 706, which relates to judgment liens;
10 exempting the Department of Labor from certain fees;
11 amending 28 O.S. 2001, Sections 152, as last amended
12 by Section 2, Chapter 247, O.S.L. 2007 and 152.1, as
13 last amended by Section 1, Chapter 195, O.S.L. 2006
14 (28 O.S. Supp. 2007, Sections 152 and 152.1), which
15 relate to fees in civil cases; providing exemptions
16 in certain cases involving Department of Labor; and
17 providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 12 O.S. 2001, Section 706, is
20 amended to read as follows:

21 Section 706. A. Scope. This section applies to all judgments
22 of courts of record of this state, and judgments of courts of record
23 of the United States not subject to the registration procedures of
24 the Uniform Federal Lien Registration Act, Section 3401 et seq. of
Title 68 of the Oklahoma Statutes, which award the payment of money,

1 regardless of whether such judgments also include other orders or
2 relief.

3 B. Creation of Lien. A judgment to which this section applies
4 shall be a lien on the real estate of the judgment debtor within a
5 county only from and after a Statement of Judgment made by the
6 judgment creditor or the judgment creditor's attorney, substantially
7 in the form prescribed by the Administrative Director of the Courts,
8 has been filed in the office of the county clerk in that county.

9 1. Presentation of a Statement of Judgment and tender of the
10 filing fee, shall, upon acceptance by the county clerk, constitute
11 filing under this section. No filing fee shall be required from the
12 Department of Labor for the creation of a lien.

13 2. A lien created pursuant to this section shall affect and
14 attach to all real property, including the homestead, of judgment
15 debtors whose names appear in the Statement of Judgment; however,
16 judgment liens on a homestead are exempt from forced sale pursuant
17 to Section 1 of Title 31 of the Oklahoma Statutes and Section 2 of
18 Article XII of the Oklahoma Constitution.

19 C. Judgment Index. A judgment index shall be kept by each
20 county clerk in which the name of each person named as a judgment
21 debtor in a Statement of Judgment filed with the county clerk shall
22 appear in alphabetical order.

23 1. It shall be the duty of the county clerk, immediately after
24 the filing of the Statement of Judgment, to make in the judgment

1 index a separate entry in alphabetical order of the name of each
2 judgment debtor named therein, which entry shall also contain the
3 name(s) of the judgment creditor(s), the name of the court which
4 granted the judgment, the number and style of the case in which the
5 judgment was filed, the amount of the judgment, including interest,
6 costs and attorney's fees if shown on the Statement of Judgment, the
7 date of the filing of the judgment with the court clerk of the court
8 which granted it, and the date of filing of the Statement of
9 Judgment with the county clerk.

10 2. It shall also be the duty of the county clerk, immediately
11 after the filing of a Release of Judgment Lien, to make a notation
12 in each entry in the judgment index made when any Statement of
13 Judgment was filed with respect to the judgment being released, of
14 the date of filing of the Release with the county clerk, the name of
15 the judgment creditor on whose behalf the Release is filed, and
16 whether the Release states that it is only a partial Release.

17 D. Execution of Judgment. Execution shall be issued only from
18 the court which granted the judgment being enforced.

19 E. Release of Lien of Judgment. The lien of a judgment upon
20 the real estate of judgment debtor in any county, which has not
21 become unenforceable by operation of law, is released only upon the
22 filing in the office of the county clerk in that county of a Release
23 of Judgment Lien, or a copy thereof certified by the court clerk of
24 the court which granted the judgment.

1 1. A judgment lien may be released, in whole or in part, by
2 filing a Release of Judgment Lien with the county clerk by the
3 judgment creditor or his or her attorney.

4 a. A Release of Judgment Lien shall either recite the
5 name of the court which granted the judgment, the
6 number and style of the case, the name of each
7 judgment debtor with respect to whom the lien is being
8 released, the name of each judgment creditor in favor
9 of whom the lien was created, or otherwise adequately
10 identify the judgment lien being released and the
11 judgment debtor against whom the lien is indexed. The
12 Administrative Director of the Courts shall prescribe
13 a form of Release of Judgment which may be used at the
14 option of the judgment creditor.

15 b. If the release is only partial, it shall also contain
16 a description of the lands then being released from
17 the judgment lien or identify the particular judgment
18 debtors, if less than all, with respect to whom the
19 lien is then being released, or both, as the case may
20 be.

21 c. A Release of Judgment Lien may also be filed with the
22 court clerk of the court which granted the judgment
23 but filing with the court clerk does not release any
24 judgment lien created pursuant to this section.

1 2. The lien of any judgment which has been satisfied by payment
2 or otherwise discharged and which has not been released by the
3 judgment creditor shall be released by the court upon written
4 motion.

5 a. The motion shall be accompanied by an affidavit
6 stating the grounds for the motion, and shall contain
7 or be accompanied by a notice to the judgment creditor
8 that, if the judgment creditor does not file with the
9 court a response or objection to the motion within
10 fifteen (15) days after the mailing of a copy of the
11 motion to the judgment creditor, the court will order
12 the judgment lien released.

13 b. A copy of the motion shall be mailed by certified mail
14 by the party seeking release of the lien to the
15 judgment creditor at the last-known address of the
16 judgment creditor, and to the attorney of record of
17 the judgment creditor, if any. There shall be
18 attached to the filed motion, and to each copy of the
19 motion to be mailed, a Certificate of Mailing showing
20 to whom copies of the motion were mailed, the
21 addresses to which they were mailed, and the date of
22 mailing.

23 c. If the judgment creditor does not file a response or
24 objection to the motion within fifteen (15) days after

1 the mailing of a copy of the motion, the court shall
2 order the judgment lien released.

3 d. When a judgment lien is ordered released by the court,
4 the court shall cause a Release of Judgment Lien, in
5 the form provided by the Administrative Director of
6 the Courts, to be prepared. Instructions shall be
7 printed on such form advising the judgment debtor to
8 file the Release in the office of the county clerk of
9 the county in which the real estate is situated in
10 order to obtain the release of the lien of the
11 judgment upon the real estate of the judgment debtor
12 in such county.

13 e. The party filing the motion for release shall pay all
14 costs of the proceeding and any recording fees.

15 F. Effect of Filing or Recording a Judgment. The filing or
16 recording of a judgment itself in the office of a county clerk on or
17 after October 1, 1993, shall not be effective to create a general
18 money judgment lien upon real estate, but a certified copy of a
19 judgment may be recorded in such office for the purpose of giving
20 notice of its contents whether or not recording is required by law.

21 G. Acceptance by County Clerk. The county clerk shall accept
22 for filing and file any Statement of Judgment or Release of Judgment
23 Lien without requiring any formalities of execution other than those
24 provided in this section.

1 SECTION 2. AMENDATORY 28 O.S. 2001, Section 152, as last
2 amended by Section 2, Chapter 247, O.S.L. 2007 (28 O.S. Supp. 2007,
3 Section 152), is amended to read as follows:

4 Section 152. A. In any civil case filed in a district court,
5 the court clerk shall collect, at the time of filing, the following
6 flat fees, none of which shall ever be refundable, and which shall
7 be the only charge for court costs, except as is otherwise
8 specifically provided for by law:

- 9 1. Actions for divorce, alimony without
10 divorce, separate maintenance, custody or
11 support..... \$140.00
- 12 2. Any ancillary proceeding to modify or
13 vacate a divorce decree providing for
14 custody or support.....\$40.00
- 15 3. Probate and guardianship.....\$132.00
- 16 4. Annual guardianship report.....\$30.00
- 17 5. Any proceeding for sale or lease of real or
18 personal property or mineral interest in
19 probate or guardianship.....\$40.00
- 20 6. Any proceeding to revoke the probate of a
21 will.....\$40.00
- 22 7. Judicial determination of death.....\$55.00
- 23 8. Adoption.....\$102.00

- 1 9. Civil actions for an amount of Ten Thousand
- 2 Dollars (\$10,000.00) or less and
- 3 condemnation.....\$147.00
- 4 10. Civil actions for an amount of Ten
- 5 Thousand One Dollars (\$10,001.00) or more\$160.00
- 6 11. Garnishment.....\$20.00
- 7 12. Continuing wage garnishment.....\$60.00
- 8 13. Any other proceeding after judgment.....\$30.00
- 9 14. All others, including but not limited to
- 10 actions for forcible entry and detainer,
- 11 judgments from all other courts, including
- 12 the Workers' Compensation Court.....\$82.00
- 13 15. Notice of renewal of judgment.....\$20.00

14 B. In addition to the amounts collected pursuant to paragraphs
15 1, 3, 7, 8, 9, 10 and 14 of subsection A of this section, the sum of
16 Six Dollars (\$6.00) shall be assessed and credited to the Law
17 Library Fund.

18 C. In addition to the amounts collected pursuant to subsections
19 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
20 shall be assessed and credited to the Oklahoma Court Information
21 System Revolving Fund created pursuant to Section 1315 of Title 20
22 of the Oklahoma Statutes.

23 D. Of the amounts collected pursuant to paragraph 8 of
24 subsection A of this section, the sum of Twenty Dollars (\$20.00)

1 shall be deposited to the credit of the Voluntary Registry and
2 Confidential Intermediary program and the Mutual Consent Voluntary
3 Registry established pursuant to the Oklahoma Adoption Code.

4 E. Of the amounts collected pursuant to subsection A of this
5 section, the sum of Ten Dollars (\$10.00) shall be deposited to the
6 credit of the Child Abuse Multidisciplinary Account.

7 F. In addition to the amounts collected pursuant to subsections
8 A and B of this section, the sum of Three Dollars (\$3.00) shall be
9 assessed and credited to the Office of the Attorney General Victim
10 Services Unit.

11 G. In any case in which a litigant claims to have a just cause
12 of action and that, by reason of poverty, the litigant is unable to
13 pay the fees and costs provided for in this section and is
14 financially unable to employ counsel, upon the filing of an
15 affidavit in forma pauperis executed before any officer authorized
16 by law to administer oaths to that effect and upon satisfactory
17 showing to the court that the litigant has no means and is,
18 therefore, unable to pay the applicable fees and costs and to employ
19 counsel, no fees or costs shall be required. The opposing party or
20 parties may file with the court clerk of the court having
21 jurisdiction of the cause an affidavit similarly executed
22 contradicting the allegation of poverty. In all such cases, the
23 court shall promptly set for hearing the determination of
24 eligibility to litigate without payment of fees or costs. Until a

1 final order is entered determining that the affiant is ineligible,
2 the clerk shall permit the affiant to litigate without payment of
3 fees or costs. Any litigant executing a false affidavit or counter
4 affidavit pursuant to the provisions of this section shall be guilty
5 of perjury.

6 H. Payments to the court clerk for fees and costs assessed
7 pursuant to this section may be made by a nationally recognized
8 credit or debit card or other electronic payment method as provided
9 in paragraph 1 of subsection B of Section 151 of this title.

10 I. No fee shall be required from a judgment creditor filing a
11 judgment of the Department of Labor, provided such judgment does not
12 exceed Two Thousand Five Hundred Dollars (\$2,500.00).

13 SECTION 3. AMENDATORY 28 O.S. 2001, Section 152.1, as
14 last amended by Section 1, Chapter 195, O.S.L. 2006 (28 O.S. Supp.
15 2007, Section 152.1), is amended to read as follows:

16 Section 152.1 A. In civil cases, the court clerk shall collect
17 and deposit in the court fund the following charges in addition to
18 the flat fee:

- 19 1. For posting notices and filing
20 certificates required by statute.....\$30.00
21 2. For the filing of any counterclaim or
22 setoff pursuant to Section 1758 of
23 Title 12 of the Oklahoma Statutes.....\$20.00
24

- 1 3. For mailing by any type of mail writs,
2 warrants, orders, process, command, or
3 notice for each person.....\$10.00
- 4 4. For the actual cost of all postage in
5 each case in excess of\$10.00
- 6 5. For serving or endeavoring to serve each
7 writ, warrant, order, process,
8 command, or notice for each person in
9 one or more counties.....\$50.00
- 10 provided that if more than one person is
11 served at the same address, one flat
12 fee of Fifty Dollars (\$50.00) may be
13 charged
- 14 6. For sheriff's fees on court-ordered
15 sales of real or personal property.....\$75.00
- 16 7. When a jury is requested.....\$349.00
- 17 8. For issuing each summons for each person.....\$ 5.00
- 18 9. For services of a court reporter at each
19 trial held in the case.....\$20.00
- 20 10. For filing a motion for summary
21 judgment or summary disposition of
22 issue(s).....\$50.00

23 The fees prescribed in paragraphs 5 and 6 of this subsection
24 shall be paid by the court clerk into the Sheriff's Service Fee

1 Account, created pursuant to the provisions of Section 514.1 of
2 Title 19 of the Oklahoma Statutes, of the sheriff in the county
3 where service is made or attempted or where the sheriff's sale
4 occurs. All other fees shall be deposited into the local court fund
5 in the county where collected.

6 B. Of the amounts collected pursuant to the provisions of
7 paragraphs 1, 2 and 7 of subsection A of this section, the sum of
8 Ten Dollars (\$10.00) shall be deposited to the credit of the Child
9 Abuse Multidisciplinary Account.

10 C. No fee prescribed in this section shall be required of the
11 Department of Labor. No fee prescribed in this section shall be
12 required from a judgment creditor filing a judgment of the
13 Department, provided such judgment does not exceed Two Thousand Five
14 Hundred Dollars (\$2,500.00).

15 SECTION 4. This act shall become effective November 1, 2008.

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17 51-2-10283 MMP 02/21/08

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