

THE HOUSE OF REPRESENTATIVES
Tuesday, February 26, 2008

Committee Substitute for
House Bill No. 2867

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2867 - By: SHELTON of the House.

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

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

1 SECTION 1. AMENDATORY 12 O.S. 2001, Section 706, is amended to read as
2 follows:
3 Section 706. A. Scope. This section applies to all judgments of courts of record of
4 this state, and judgments of courts of record of the United States not subject to the
5 registration procedures of the Uniform Federal Lien Registration Act, Section 3401 et
6 seq. of Title 68 of the Oklahoma Statutes, which award the payment of money, regardless
7 of whether such judgments also include other orders or relief.
8 B. Creation of Lien. A judgment to which this section applies shall be a lien on the
9 real estate of the judgment debtor within a county only from and after a Statement of
10 Judgment made by the judgment creditor or the judgment creditor's attorney,

1 substantially in the form prescribed by the Administrative Director of the Courts, has
2 been filed in the office of the county clerk in that county.

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

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

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

14 1. It shall be the duty of the county clerk, immediately after the filing of the
15 Statement of Judgment, to make in the judgment index a separate entry in alphabetical
16 order of the name of each judgment debtor named therein, which entry shall also contain
17 the name(s) of the judgment creditor(s), the name of the court which granted the
18 judgment, the number and style of the case in which the judgment was filed, the amount
19 of the judgment, including interest, costs and attorney's fees if shown on the Statement
20 of Judgment, the date of the filing of the judgment with the court clerk of the court which
21 granted it, and the date of filing of the Statement of Judgment with the county clerk.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

9 E. Release of Lien of Judgment. The lien of a judgment upon the real estate of
10 judgment debtor in any county, which has not become unenforceable by operation of law,
11 is released only upon the filing in the office of the county clerk in that county of a Release
12 of Judgment Lien, or a copy thereof certified by the court clerk of the court which granted
13 the judgment.

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

16 a. A Release of Judgment Lien shall either recite the name of the court
17 which granted the judgment, the number and style of the case, the
18 name of each judgment debtor with respect to whom the lien is being
19 released, the name of each judgment creditor in favor of whom the lien
20 was created, or otherwise adequately identify the judgment lien being
21 released and the judgment debtor against whom the lien is indexed.

22 The Administrative Director of the Courts shall prescribe a form of

1 Release of Judgment which may be used at the option of the judgment
2 creditor.

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

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

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

13 a. The motion shall be accompanied by an affidavit stating the grounds
14 for the motion, and shall contain or be accompanied by a notice to the
15 judgment creditor that, if the judgment creditor does not file with the
16 court a response or objection to the motion within fifteen (15) days
17 after the mailing of a copy of the motion to the judgment creditor, the
18 court will order the judgment lien released.

19 b. A copy of the motion shall be mailed by certified mail by the party
20 seeking release of the lien to the judgment creditor at the last-known
21 address of the judgment creditor, and to the attorney of record of the
22 judgment creditor, if any. There shall be attached to the filed motion,

1 and to each copy of the motion to be mailed, a Certificate of Mailing
2 showing to whom copies of the motion were mailed, the addresses to
3 which they were mailed, and the date of mailing.

4 c. If the judgment creditor does not file a response or objection to the
5 motion within fifteen (15) days after the mailing of a copy of the
6 motion, the court shall order the judgment lien released.

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

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

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

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

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

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

- 11 1. Actions for divorce, alimony without divorce, separate
12 maintenance, custody or support..... \$140.00
- 13 2. Any ancillary proceeding to modify or vacate a divorce
14 decree providing for 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 personal
18 property or mineral interest in probate or guardianship \$40.00
- 19 6. Any proceeding to revoke the probate of a will..... \$40.00
- 20 7. Judicial determination of death \$55.00
- 21 8. Adoption \$102.00

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

12 B. In addition to the amounts collected pursuant to paragraphs 1, 3, 7, 8, 9, 10 and
 13 14 of subsection A of this section, the sum of Six Dollars (\$6.00) shall be assessed and
 14 credited to the Law Library Fund.

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

19 D. Of the amounts collected pursuant to paragraph 8 of subsection A of this section,
 20 the sum of Twenty Dollars (\$20.00) shall be deposited to the credit of the Voluntary
 21 Registry and Confidential Intermediary program and the Mutual Consent Voluntary
 22 Registry established pursuant to the Oklahoma Adoption Code.

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

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

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

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

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

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

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

- 12 1. For posting notices and filing certificates required by
13 statute..... \$30.00
- 14 2. For the filing of any counterclaim or setoff pursuant to
15 Section 1758 of Title 12 of the Oklahoma Statutes \$20.00
- 16 3. For mailing by any type of mail writs, warrants,
17 orders, process, command, or notice for each
18 person \$10.00
- 19 4. For the actual cost of all postage in each case in excess
20 of \$10.00

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

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

6 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
7 FINANCIAL SERVICES, dated 02-25-08 - DO PASS, As Amended.