

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1646

By: Ivester

4
5
6 AS INTRODUCED

7 An Act relating to civil procedure; amending 12 O.S.
8 2001, Section 706, which relates to creation of lien;
9 creating exemption for certain filing fee; amending
10 28 O.S. 2001, Section 152.1, as last amended by
11 Section 1, Chapter 195, O.S.L. 2006 (28 O.S. Supp.
12 2007, Section 152.1), which relates to civil actions;
13 deleting fee for certain attempt; creating exemption
14 for certain fees; and providing an effective date.

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

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

18 Section 706. A. Scope. This section applies to all judgments
19 of courts of record of this state, and judgments of courts of record
20 of the United States not subject to the registration procedures of
21 the Uniform Federal Lien Registration Act, Section 3401 et seq. of
22 Title 68 of the Oklahoma Statutes, which award the payment of money,
23 regardless of whether such judgments also include other orders or
24 relief.

25 B. Creation of Lien. A judgment to which this section applies
26 shall be a lien on the real estate of the judgment debtor within a

1 county only from and after a Statement of Judgment made by the
2 judgment creditor or the judgment creditor's attorney, substantially
3 in the form prescribed by the Administrative Director of the Courts,
4 has been filed in the office of the county clerk in that county.

5 1. Presentation of a Statement of Judgment and tender of the
6 filing fee, shall, upon acceptance by the county clerk, constitute
7 filing under this section. No filing fee shall be required from the
8 Department of Labor for the creation of a lien. No filing fee shall
9 be required from a judgment creditor filing a judgment of the
10 Department, provided such judgment does not exceed Two Thousand Five
11 Hundred Dollars (\$2,500.00).

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

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

22 1. It shall be the duty of the county clerk, immediately after
23 the filing of the Statement of Judgment, to make in the judgment
24 index a separate entry in alphabetical order of the name of each

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

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

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

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

24

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 152.1, as
2 last amended by Section 1, Chapter 195, O.S.L. 2006 (28 O.S. Supp.
3 2007, Section 152.1), is amended to read as follows:

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

7 1. For posting notices and filing
8 certificates required by statute.....\$30.00

9 2. For the filing of any counterclaim or
10 setoff pursuant to Section 1758 of
11 Title 12 of the Oklahoma Statutes.....\$20.00

12 3. For mailing by any type of mail writs,
13 warrants, orders, process, command, or
14 notice for each person.....\$10.00

15 4. For the actual cost of all postage in
16 each case in excess of.....\$10.00

17 5. For serving ~~or endeavoring to serve~~ each
18 writ, warrant, order, process,
19 command, or notice for each person in
20 one or more counties.....\$50.00

21 provided that if more than one person is
22 served at the same address, one flat
23 fee of Fifty Dollars (\$50.00) may be
24 charged

- 1 6. For sheriff's fees on court-ordered
2 sales of real or personal property.....\$75.00
3 7. When a jury is requested.....\$349.00
4 8. For issuing each summons for each person.....\$ 5.00
5 9. For services of a court reporter at each
6 trial held in the case.....\$20.00
7 10. For filing a motion for summary
8 judgment or summary disposition of
9 issue(s).....\$50.00

10 The fees prescribed in paragraphs 5 and 6 of this subsection
11 shall be paid by the court clerk into the Sheriff's Service Fee
12 Account, created pursuant to the provisions of Section 514.1 of
13 Title 19 of the Oklahoma Statutes, of the sheriff in the county
14 where service is made or attempted or where the sheriff's sale
15 occurs. All other fees shall be deposited into the local court fund
16 in the county where collected.

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

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

1 SECTION 3. This act shall become effective November 1, 2008.

2
3 51-2-2965 TEK 1/22/2008 8:08:46 PM
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24