AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 3013

Introduced by Assembly Member Levine

February 22, 2008

An act to amend Sections 697.510 and 697.670 of the Code of Civil Procedure, relating to judgment liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 3013, as amended, Levine. Judgment liens: continuation.

Existing law provides that a judgment lien on specified personal property is created by filing a notice of judgment lien in the office of the Secretary of State. Existing law also provides that, unless the money judgment is satisfied or the judgment lien is terminated or released, the judgment lien continues for 5 years from the date of filing.

This bill would authorize a continuation statement, as defined, to be filed not more than 6 months before the expiration of the 5-year period of the judgment lien. A continuation statement would extend the effectiveness of the judgment lien for another 5 years commencing on the date the lien would have expired. The bill would authorize the filing of successive continuation statements. The bill would set forth the circumstances under which the lien would be extinguished. In that case, the bill would require the judgment creditor to file a statement of release within 20 days after the judgment creditor receives an authenticated demand from a judgment debtor. The bill would also authorize the person who made the demand to apply for an order releasing the judgment lien, as specified, if the judgment creditor does not file a

statement of release pursuant to that provision. The bill would set forth related fees and definitions for these provisions, and provide for attorney's fees in an action or proceeding maintained pursuant to these provisions. *The bill would also specify that nothing in those provisions would be in derogation of any other relief to which an aggrieved person may be entitled by law.* The bill would provide that a court order to release the judgment lien may be filed in the office of the Secretary of State.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 697.510 of the Code of Civil Procedure is amended to read:

697.510. (a) A judgment lien on personal property described in Section 697.530 is created by filing a notice of judgment lien in the office of the Secretary of State pursuant to this article. A judgment lien may be created under this article only if the judgment is a money judgment that was first entered in this state after June 30, 1983. Except as provided in subdivision (b) of Section 697.540, a judgment lien may not be created under this article if the money judgment is payable in installments unless all of the installments under the judgment have become due and payable at the time the notice of judgment lien is filed.

(b) Except as otherwise provided in subdivision (c), (e), or (g), the judgment lien continues for five years from the date of filing.

(c) The effectiveness of a filed judgment lien lapses on the expiration of the period described in subdivision (b) unless, before the lapse, a continuation statement is filed pursuant to subdivision (d). Upon lapse, the judgment lien created by the filing of a notice pursuant to subdivision (a) ceases to be effective.

(d) A continuation statement may be filed only within the six-month period prior to the expiration of the five-year period specified in subdivision (b).

(e) A continuation statement that is not filed within the six-month period prescribed by subdivision (d) is ineffective. Upon timely filing of a continuation statement, the effectiveness of the initial notice of judgment lien continues for a period of five years commencing on the day on which the notice of judgment lien

would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the notice of judgment lien lapses in the same manner as provided in subdivision (c), unless, before the lapse, another continuation statement is filed pursuant to subdivision (d). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial notice of judgment lien.

(f) For purposes of this section, "continuation statement" means an amendment of a notice of judgment lien which does both of the following:

(1) Identifies, by its file number, the initial notice of judgment lien to which it relates.

(2) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified notice of judgment lien.

(g) (1) Notwithstanding any other provision of this section, the lien created by this section is extinguished at the earliest to occur of the following:

(A) The money judgment is satisfied.

(B) The period of enforceability of the judgment, including any extension thereof pursuant to Article 2 (commencing with Section 683.110) of Chapter 3 of Division 1, terminates.

(C) The judgment lien is terminated or released.

(2) If the lien created by this section is extinguished, the judgment creditor shall file a statement of release within 20 days after the judgment creditor receives an authenticated demand from the judgment debtor. *For the purposes of this subdivision, "authenticated demand" means either a signed written demand or an executed or otherwise encrypted demand delivered electronically that identifies the judgment debtor and the demand for a statement of release.*

(h) If a judgment creditor does not file a statement of release pursuant to subdivision (g), the person who made the demand may apply to the court on noticed motion for an order releasing the judgment lien. Notice of ~~motion~~ *the motion shall be filed in the county where the judgment was rendered and notice of the motion* shall be served on the judgment creditor. Service shall be made personally or by mail. Upon presentation of evidence to the satisfaction of the court that the ~~period of enforceability of the judgment has terminated~~ *judgment lien has been extinguished*

pursuant to subdivision (g), the court shall order the judgment creditor to prepare and file the statement of release or shall itself order the release of the judgment lien. The court order may be filed in the office of the Secretary of State and shall have the same effect as the statement of release demanded under subdivision (g).

(i) The court shall award reasonable attorney's fees to the prevailing party in any action or proceeding maintained pursuant to this section.

~~(j) The damages provided by this section are not in derogation of any other damages or penalties to which an aggrieved person may be entitled by law.~~

(j) Nothing in this section is in derogation of any other relief to which an aggrieved person may be entitled by law.

(k) The fees for filing and indexing a record under this section, or for responding to a request for information from the filing office, are as set forth in Section 9525 of the Commercial Code.

(*l*) The provisions of Sections 9522 and 9523 of the Commercial Code shall apply to a notice of judgment lien to the same extent as to a filed financing statement.

(m) Terms for which definitions are not set forth in Division 1 (commencing with Section 680.010) have the definitions set forth in the Commercial Code.

SEC. 2. Section 697.670 of the Code of Civil Procedure is amended to read:

697.670. (a) The Secretary of State may prescribe, provided that a cost-savings would be achieved thereby:

(1) The forms for the notice of judgment lien on personal property and the statement of continuation, release, or subordination provided for in this article.

(2) The form for the statement provided for in Section 697.640 and the situations when that form is required or is not required.

(b) A form prescribed by the Secretary of State for a notice or statement pursuant to subdivision (a) is deemed to comply with this article and supersedes any requirements specified in this article for the notice or statement.

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