

House Bill 3493

Sponsored by SPECIAL COMMITTEE ON BUDGET

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Secretary of State to maintain Statewide Lien Register. Allows certain state agencies that issue warrants to transmit notices of lien to Secretary of State for filing in register. Specifies effect of filing notice of lien. Allows amendment of notice of lien. Allows release, subordination or extension of lien. Requires agency to file release of lien when debt on which warrant is based is satisfied. Allows Secretary of State to specify by rule manner of and format and fee for transmission of documents to be filed in register.

A BILL FOR AN ACT

1
2 Relating to Statewide Lien Register.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Secretary of State to maintain Statewide Lien Register.** (1) **The Secretary**
5 **of State shall maintain a Statewide Lien Register for the purpose of filing notices of lien**
6 **under warrants described in section 2 of this 2005 Act. Only state agencies may transmit**
7 **notices of lien to the Secretary of State for filing in the Statewide Lien Register. The**
8 **Statewide Lien Register shall be maintained as an electronic database that may be accessed**
9 **by the public through an Internet site maintained by the Secretary of State.**

10 (2) **The Secretary of State shall provide information to the public on notices of lien filed**
11 **in the Statewide Lien Register on the same conditions and in the same form as the Secretary**
12 **of State provides information on financing statements filed with the Secretary of State under**
13 **ORS chapter 79.**

14 **SECTION 2. Agencies that may file notices of lien.** (1) **Any state agency authorized to**
15 **issue warrants to collect taxes and debts owed to the State of Oregon, including but not**
16 **limited to warrants issued pursuant to ORS 179.655, 267.385, 293.250, 314.430, 316.207, 319.182,**
17 **319.742, 320.080, 321.570, 323.390, 323.610, 324.190, 411.703, 652.414, 657.396, 657.642, 705.175 and**
18 **825.504, may transmit an electronic notice of lien to the Secretary of State for a warrant**
19 **issued by the agency. A single notice of lien may be transmitted for two or more warrants**
20 **issued against a debtor.**

21 (2) **A notice of lien transmitted to the Secretary of State under this section must include:**

22 (a) **The name and last-known address of the debtor.**

23 (b) **The name and address of the agency filing the notice of lien.**

24 (c) **The balance due on the warrant or warrants.**

25 (d) **The rate and manner of interest accrual, the date from which interest accrues and**
26 **the principal upon which interest accrues.**

27 (e) **Such other information as may be required by the Secretary of State.**

28 **SECTION 3. Filing of notice of lien.** (1) **An agency described in section 2 of this 2005 Act**
29 **may transmit a notice of lien for a warrant to the Secretary of State at any time after the**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 warrant is issued.

2 (2) An agency that transmits a notice of lien to the Secretary of State shall provide the
 3 Secretary of State with information that will allow interested persons to contact the agency.
 4 The Secretary of State shall include the contact information on the Internet site maintained
 5 under section 1 of this 2005 Act.

6 **SECTION 4. Effect of filing notice of lien.** (1) Upon the filing of a notice of lien in the
 7 Statewide Lien Register, the agency transmitting the notice has a lien on all of the real and
 8 personal property of the debtor. The lien is for the amount of the debt owed on the warrant
 9 or warrants for which the notice of lien was issued.

10 (2) The filing of a notice of lien in the Statewide Lien Register has the same lien effect
 11 as a judgment recorded under ORS 18.152 in all of the County Clerk Lien Records for the
 12 counties of this state at the same time the notice of lien is filed in the Statewide Lien Reg-
 13 ister.

14 (3) The lien created by the filing of a notice of lien in the Statewide Lien Register is
 15 subordinate to any interest in personal property within this state to the same extent that a
 16 security agreement perfected by filing under the Uniform Commercial Code would be subor-
 17 dinate to the interest if the security agreement was perfected by filing at the same time that
 18 the notice of lien was filed in the Statewide Lien Register.

19 (4) The lien created by the filing of a notice of lien in the Statewide Lien Register is not
 20 valid against a purchaser, security interest holder or lienholder under a sale, security
 21 agreement or lien arising out of the following types of property or property transactions
 22 unless the purchaser, security interest holder or lienholder had actual knowledge of the lien:

- 23 (a) Securities as defined in ORS 78.1020;
- 24 (b) Retail purchases in the ordinary course of business;
- 25 (c) Casual sales of personal property;
- 26 (d) Attorney's liens;
- 27 (e) Insurance contract loans; or
- 28 (f) Passbook loans.

29 (5) The lien created by the filing of a notice of lien in the Statewide Lien Register is in
 30 addition to and not in lieu of any other lien or remedies available to the state agency.

31 **SECTION 5. Notice of amendment.** An agency described in section 2 of this 2005 Act may
 32 transmit an electronic notice of amendment to the Secretary of State for filing in the
 33 Statewide Lien Register for any notice of lien that has been previously filed. The filing of a
 34 notice of amendment has the same effect on the real property lien created by the previously
 35 filed notice of lien that the rerecording of a mortgage or trust deed in the County Clerk Lien
 36 Record has on a previously recorded mortgage or trust deed. A notice of amendment may
 37 be filed in the Statewide Lien Register only for the purpose of making those changes in the
 38 previously filed notice of lien that could be made in a mortgage or trust deed by rerecording
 39 the mortgage or trust deed in the County Clerk Lien Record. The notice of amendment must
 40 include the name of the debtor, the date on which the original notice of lien was filed and
 41 such other information as may be required by the Secretary of State.

42 **SECTION 6. Release or subordination of lien.** (1) An agency described in section 2 of this
 43 2005 Act may transmit an electronic release of lien to the Secretary of State for filing in the
 44 Statewide Lien Register for any notice of lien that has been previously filed. An agency may
 45 release a lien created pursuant to section 4 of this 2005 Act to the same extent that the

1 agency may release other liens based on warrants issued by the agency. The release of lien
 2 must specifically identify the notice of lien to be released. The release of lien must include
 3 any information required by the Secretary of State. A release of lien may be for all or part
 4 of the property of the debtor.

5 (2) An agency described in section 2 of this 2005 Act may transmit an electronic subor-
 6 dination of lien to the Secretary of State for filing in the Statewide Lien Register for any
 7 notice of lien that has been previously filed. An agency may subordinate liens created pur-
 8 suant to section 4 of this 2005 Act to the same extent that the agency may subordinate other
 9 liens based on warrants issued by the agency. A subordination of lien must include any in-
 10 formation required by the Secretary of State.

11 **SECTION 7. Expiration of lien; certificate of extension.** (1) Except as provided in this
 12 section, a lien created pursuant to section 4 of this 2005 Act expires 10 years after the date
 13 the notice of lien is filed.

14 (2) At any time before a lien expires under subsection (1) of this section, an agency may
 15 transmit a certificate of extension for the lien to the Secretary of State for filing in the
 16 Statewide Lien Register. If a certificate of extension for a lien is filed in the Statewide Lien
 17 Register after the lien expires under subsection (1) of this section, the filing has no effect.
 18 The certificate of extension must include any information required by the Secretary of State.

19 (3) If a certificate of extension is filed in the Statewide Lien Register within the time
 20 allowed, the lien expires 10 years after the certificate of extension is filed. A lien may be
 21 extended only once under the provisions of this section.

22 **SECTION 8. Duty of agency to release lien upon satisfaction of debt.** If an agency has
 23 caused a notice of lien to be filed in the Statewide Lien Register, the agency shall transmit
 24 a release of lien to the Secretary of State as soon as practicable when the debt on which the
 25 lien is based is satisfied. The Secretary of State shall establish a deadline for eliminating all
 26 references to the lien from the Internet site after a release of lien is filed under this section.

27 **SECTION 9. Transmission of documents; fees.** (1) The Secretary of State by rule may
 28 specify the format and manner of transmission for notices of lien, notices of amendment,
 29 releases of lien, subordinations of liens and certificates of extension that are transmitted to
 30 the Secretary of State for filing in the Statewide Lien Register. The Secretary of State shall
 31 file a document only if the document is transmitted in the format and manner specified by
 32 the rules of the Secretary of State.

33 (2) The Secretary of State may establish fees for accepting notices of lien, notices of
 34 amendment, releases of lien, subordinations of liens and certificates of extension that are
 35 transmitted to the Secretary of State for filing in the Statewide Lien Register. The Secretary
 36 of State may establish fees for providing information from the Statewide Lien Register.

37 **SECTION 10. Filing of documents.** If a notice of lien, notice of amendment, release of
 38 lien, subordination of lien or certificate of extension is transmitted to the Secretary of State
 39 in the manner and form required by sections 1 to 9 of this 2005 Act, the Secretary of State
 40 shall note the receipt of the document in the Statewide Lien Register and simultaneously
 41 post notice of receipt on the Internet site maintained under section 1 of this 2005 Act. The
 42 document is filed for the purposes of sections 1 to 9 of this 2005 Act when the Secretary of
 43 State notes receipt of the document in the register.

44 **SECTION 11. Applicability.** A notice of lien may be filed in the Statewide Lien Register
 45 under sections 1 to 9 of this 2005 Act for any warrant issued by an agency described in sec-

1 tion 2 of this 2005 Act, without regard to whether the warrant is issued before, on or after
2 the effective date of this 2005 Act.

3 SECTION 12. Section captions. The section captions used in this 2005 Act are provided
4 only for the convenience of the reader and do not become part of the statutory law of this
5 state or express any legislative intent in the enactment of this 2005 Act.
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