

HOUSE BILL REPORT

SB 6566

As Reported by House Committee On:
Judiciary

Title: An act relating to when a judgment lien on real property commences.

Brief Description: Adjusting when a judgment lien on real property commences.

Sponsors: Senators Litzow and Hobbs.

Brief History:

Committee Activity:

Judiciary: 2/15/12, 2/20/12 [DP].

Brief Summary of Bill

- Provides that a judgment lien from the superior court of the county where the judgment debtor's real property is located commences from the time the county clerk files the judgment on the execution docket.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Trudes Tango (786-7384).

Background:

A court judgment can become a lien on the judgment debtor's real property. The time when a judgment becomes a lien on real property depends on the court and the location of the property. A lien commences upon entry or filing of a superior court judgment as to real property located in the county where the court is located. As to property outside that county, the lien commences after a certified abstract of the judgment is filed with the clerk of the county where the real property is located.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Every county clerk must maintain an execution docket that is a public record. County clerks must enter all judgments in the court's execution docket. On the first page of each judgment, there must be a summary that complies with specific statutory requirements. The clerk may not enter the judgment on the execution docket until the judgment has a summary in compliance with the statute.

In a recent Washington Supreme Court case, *Bank of America v. Owens* (2011), the court held that although the clerk may not enter a judgment in the execution docket until a proper summary exists, the lack of a summary and entry into the execution docket does not prevent a valid judgment from being a lien. The court stated in a footnote: "The Legislature might make the creation of a lien on a judgment debtor's real property contingent on entry of the judgment in the execution docket. It has not yet done so."

As a matter of industry practice, title insurers searching public records for liens on real property generally search the county auditor's office and the county clerk's execution docket in the county where the property is located.

Summary of Bill:

A lien of judgment of the superior court for the county in which the debtor's real property is situated commences from the time of the filing by the county clerk upon the execution docket.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is an important bill for the Washington Land Title Association. The entire real estate industry has depended upon the filing of the judgment summary, which is required before the public can see whether a lien exists. The purpose of a lien is to prevent the judgment debtor from transferring property to someone else without the judgment getting paid first. Having the judgment filed on the execution docket is necessary so the lien is not a secret and the public becomes aware that there is a lien.

(Opposed) None.

Persons Testifying: Stu Halsan and Dwight Bickel, Washington Land Title Association.

Persons Signed In To Testify But Not Testifying: None.