

COMMENTS ON 2026- H 7507

9-21-14 Judgment Lien Notice

Please allow me to comment on House Bill 2026-H- 7507. I am a practicing attorney in the State of Rhode Island for 45 years.

I am opposed to this legislation in that it will add more time and expense for a plaintiff attorney which will be passed on to their small business clients. Keep in mind that the small business already suffered a loss in that it did not get paid for goods and services provided giving rise to the judgment lien in the first place. Nevertheless, if passed, some language in the bill should be refined:

1. The contents of the required notice to be delivered to the property owner includes Subsection (b)(4) which reads **“Instructions on how to satisfy or contest the lien”**

I suggest that Subsection (b)(4) strike the language **“or contest”**.

This notice as drafted could be interpreted so that the plaintiff attorney, or the attorney recording the lien, must then inform the property owner how to contest the lien. This requirement will place the attorney in conflict with the professional rules of ethics by compelling the attorney to give legal advice to the adverse party on how to oppose the interest of the attorney’s client. I should also point out that it is uncertain what that

advice would be; if the lien can be contested, the question would be why was the lien recorded in the first place.

Further if a person or small business is an unrepresented Plaintiff, such person would have no legal knowledge of how such a lien could be contested or be qualified to give such legal advice.

2. Subsection (c): Failure to Provide Notice

This subsection concerns the required notice and tolling of any deadlines. There is no mention of who determines whether the notice meets the requirements of the proposed statute and whether the instructions required in subsection (b)(4) have been adequately stated. There is no statutory form of notice provided and there are no statutory form of instructions to be provided with the notice upon which the judgment creditor may rely. The instructions could be stated differently by each attorney or judgment creditor. This will lead to more litigation and expense to determine whether the notice and included instructions met the statutory requirements. The cost will again be borne by many small businesses and individuals who sought redress in the courts for money owed to them.

3. Subsection (d): Clerk of Court Records.

This subsection would impose a new requirement on the clerks of court to keep and maintain a registry of not only the judgment lien filings but also the notices sent to the property owners.

The cost of maintaining this registry is unknown. Will the court be allowed to charge yet another fee for the filing? Again, the cost on small businesses must be considered as this cost will also be passed on to them.

Currently there is a \$49.00 discharge of lien paid to municipalities to remove the judgment lien. Courts do not require a discharge be filed, but only a satisfaction of judgment. The statute does not state whether the discharge of lien also be filed with the court. It is unknown whether a filing fee for the discharge would also be charged.

Thank you for your consideration.

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