

PROPERTY CODE
CHAPTER 52. JUDGMENT LIEN
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 52.001. ESTABLISHMENT OF LIEN. Except as provided by Section 52.0011, a first or subsequent abstract of judgment, when it is recorded and indexed in accordance with this chapter, if the judgment is not then dormant, constitutes a lien on the real property of the defendant located in the county in which the abstract is recorded and indexed, including real property acquired after such recording and indexing.

Acts 1983, 68th Leg., p. 3526, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1989, 71st Leg., ch. 1178, Sec. 2, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 48, Sec. 6, eff. Sept. 1, 1993.

Sec. 52.0011. ESTABLISHMENT OF LIEN PENDING APPEAL OF JUDGMENT. (a) A first or subsequent abstract of a judgment rendered by a court against a defendant, when it is recorded and indexed under this chapter, does not constitute a lien on the real property of the defendant if:

(1) the defendant has posted security as provided by law or is excused by law from posting security; and

(2) the court finds that the creation of the lien would not substantially increase the degree to which a judgment creditor's recovery under the judgment would be secured when balanced against the costs to the defendant after the exhaustion of all appellate remedies. A certified copy of the finding of the court must be recorded in the real property records in each county in which the abstract of judgment or a certified copy of the judgment is filed in the abstract of judgment records.

(b) The court may withdraw its finding under Subsection (a)(2) at any time the court determines, from evidence presented to it, that the finding should be withdrawn. The lien exists on withdrawal of the finding and on the filing of a certified copy of the withdrawal of the finding of the court in the real property records in each county in which the abstract of judgment or a certified copy of the judgment is filed in the abstract of judgment records.

Added by Acts 1989, 71st Leg., ch. 1178, Sec. 3, eff. Sept. 1, 1989.

Sec. 52.002. ISSUANCE OF ABSTRACT. (a) On application of a person in whose favor a judgment is rendered or on application of that person's agent, attorney, or assignee, the judge or justice of the peace who rendered the judgment or the clerk of the court in which the judgment is rendered shall prepare, certify, and deliver to the applicant an abstract of the judgment. The applicant for the abstract must pay the fee authorized by law for providing the abstract.

(b) The attorney of a person in whose favor a judgment is rendered in a small claims court or a justice court or a person in whose favor a judgment is rendered in a court other than a small claims court or a justice court or that person's agent, attorney, or assignee may prepare the abstract of judgment. An abstract of judgment prepared under this subsection must be verified by the person preparing the abstract.

Acts 1983, 68th Leg., p. 3527, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 663, Sec. 2, eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 176, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 668, Sec. 2, eff. Sept. 1, 2001.

Sec. 52.003. CONTENTS OF ABSTRACT. (a) An abstract of a judgment must show:

(1) the names of the plaintiff and defendant;

(2) the birthdate and driver's license number of the defendant, if available to the clerk or justice;

(3) the number of the suit in which the judgment was rendered;

(4) the defendant's address, or if the address is not shown in the suit, the nature of citation and the date and place of service of citation;

(5) the date on which the judgment was rendered;

(6) the amount for which the judgment was rendered and the balance due;

(7) the amount of the balance due, if any, for child support arrearage; and

(8) the rate of interest specified in the judgment.

(b) An abstract of a judgment may show a mailing address for each plaintiff or judgment creditor.

Acts 1983, 68th Leg., p. 3527, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 4.08, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 134, Sec. 2, eff. May 12, 1993.

Sec. 52.004. RECORDING AND INDEXING OF ABSTRACT. (a) The county clerk shall immediately record in the county real property records each properly authenticated abstract of judgment that is presented for recording. The clerk shall note in the records the date and hour an abstract of judgment is received.

(b) At the same time an abstract is recorded, the county clerk shall enter the abstract on the alphabetical index to the real property records, showing:

- (1) the name of each plaintiff in the judgment;
 - (2) the name of each defendant in the judgment; and
 - (3) the volume and page or instrument number in the records in which the abstract is recorded.
- Acts 1983, 68th Leg., p. 3527, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2001, 77th Leg., ch. 668, Sec. 2, eff. Sept. 1, 2001.

Sec. 52.0041. ADDRESS REQUIREMENT FOR RECORDING ABSTRACT. (a) A judgment abstracted after September 1, 1993, may not be recorded unless:

- (1) a mailing address for each plaintiff or judgment creditor appears on the abstract of judgment; or
- (2) a penalty filing fee equal to the greater of \$25 or twice the statutory recording fee for the abstract is paid.

(b) The validity of an abstracted judgment as between the parties is not affected by a failure to include an address for each plaintiff or judgment creditor in the abstracted judgment.

(c) Payment of a filing fee and acceptance of the abstract of judgment by a county clerk for recording creates a conclusive presumption that the requirements of this section have been met. Added by Acts 1993, 73rd Leg., ch. 134, Sec. 1, eff. May 12, 1993.

Sec. 52.005. SATISFACTION OF JUDGMENT. Satisfaction of a judgment in whole or in part may be shown by recordation of:

(1) a return on an execution issued on the judgment, or a copy of the return, certified by the officer making the return and showing:

- (A) the names of the parties to the judgment;
- (B) the number and style of the suit;
- (C) the court in which the judgment was rendered;
- (D) the date and amount of the judgment; and
- (E) the dates of issuance and return of the execution; or

(2) a receipt, acknowledgement, or release that is signed by the party entitled to receive payment of the judgment or by that person's agent or attorney of record and that is acknowledged or proven for record in the manner required for deeds. Acts 1983, 68th Leg., p. 3528, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2001, 77th Leg., ch. 668, Sec. 2, eff. Sept. 1, 2001.

Sec. 52.006. DURATION OF LIEN. A judgment lien continues for 10 years following the date of recording and indexing the abstract, except that if the judgment becomes dormant during that period the lien ceases to exist.

Acts 1983, 68th Leg., p. 3528, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 52.007. FEDERAL COURT JUDGMENT. An abstract of a judgment rendered in this state by a federal court may be recorded and indexed under this chapter on the certificate of the clerk of the court.

Acts 1983, 68th Leg., p. 3528, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER B. CANCELLATION OF JUDGMENTS AND JUDGMENT LIENS AGAINST BANKRUPTS--ABSTRACT RECORDED BEFORE SEPTEMBER 1, 1993

Sec. 52.021. DISCHARGE AND CANCELLATION. (a) In accordance with this subchapter, a judgment and judgment lien may be discharged and canceled if the person against whom the judgment was rendered is discharged from his debts under federal bankruptcy law.

(b) This subchapter applies to judgments against persons whose debts are discharged in bankruptcy and for which the abstracts of judgment are recorded before September 1, 1993, as provided by Subchapter A, regardless of the fact that the discharge in bankruptcy occurred before this law took effect.

Acts 1983, 68th Leg., p. 3529, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1993, 73rd Leg., ch. 313, Sec. 2, eff. Sept. 1, 1993.

Sec. 52.022. APPLICATION FOR COURT ORDER. (a) The person

who has been discharged from his debts, that person's receiver or trustee, or any other interested person may apply, on proof of the discharge, to the court in which the judgment was rendered for an order discharging and canceling the judgment and judgment lien.

(b) A person may not apply for the order before a year has elapsed since the bankruptcy discharge.

Acts 1983, 68th Leg., p. 3529, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 52.023. NOTICE OF APPLICATION. (a) Notice of the application for the order and copies of the papers on which application is made must be served on the judgment creditor or his attorney of record in the action in which the judgment was rendered.

(b) If the residence or place of business of the judgment creditor or his attorney is known, notice must be served in the manner prescribed for service of notice in an action.

(c) As an alternative to service under Subsection (b), the court may order that notice of the application be published in a newspaper designated in the order once a week for not more than three consecutive weeks if the applicant proves by affidavit that:

(1) the address of neither the judgment creditor nor his attorney is known and the address of neither can be ascertained by due diligence; or

(2) the judgment creditor is not a resident of this state and his attorney is dead, removed from the state, or unknown.

Acts 1983, 68th Leg., p. 3529, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 52.024. COURT ORDER. (a) The court shall conduct a hearing on the application and shall enter an order of discharge and cancellation of the judgment and any abstracts of the judgment if the debtor or bankrupt has been discharged in bankruptcy from the payment of the obligation or debt represented by the judgment.

(b) In each county in which the court's order is recorded in the judgment lien records, the order constitutes a release, discharge, and cancellation of the judgment and of any unsatisfied judgment lien represented by an abstract that is of record in the county on the date of the order or is recorded in the county on or after the date of the order.

Acts 1983, 68th Leg., p. 3530, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 52.025. EFFECT ON LIEN OF DISCHARGE OF DEBT IN BANKRUPTCY. (a) A judgment lien is not affected by the order of discharge and cancellation and may be enforced, if the lien is against real property owned by the bankrupt or debtor before the debtor was adjudged bankrupt or a petition for debtor relief was filed under federal bankruptcy law, and:

(1) the debt or obligation evidenced by the judgment is not discharged in bankruptcy; or

(2) the property is nonexempt and is abandoned during the course of the proceeding.

(b) Except as provided by Subsection (a), the judgment is of no force or validity and may not be a lien on real property acquired by the bankrupt or debtor after the discharge in bankruptcy.

Acts 1983, 68th Leg., p. 3530, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER C. CANCELLATION OF JUDGMENTS AND JUDGMENT LIENS AGAINST DEBTORS--ABSTRACT RECORDED ON OR AFTER SEPTEMBER 1, 1993

Sec. 52.041. APPLICATION OF SUBCHAPTER. This subchapter applies to a judgment and judgment lien for which an abstract of judgment or judgment lien is recorded on or after September 1, 1993. Added by Acts 1993, 73rd Leg., ch. 313, Sec. 3, eff. Sept. 1, 1993.

Sec. 52.042. DISCHARGE AND CANCELLATION. (a) A judgment is discharged and any abstract of judgment or judgment lien is canceled and released without further action in any court and may not be enforced if:

(1) the lien is against real property owned by the debtor before a petition for debtor relief was filed under federal bankruptcy law; and

(2) the debt or obligation evidenced by the judgment is discharged in the bankruptcy.

(b) A judgment evidencing a debt or obligation discharged in bankruptcy does not have force or validity and may not be a lien on real property acquired by the debtor after the petition for debtor relief was filed.

Added by Acts 1993, 73rd Leg., ch. 313, Sec. 3, eff. Sept. 1, 1993.

Sec. 52.043. EXCEPTIONS TO DISCHARGE AND CANCELLATION. A judgment lien is not affected by this subchapter and may be enforced if the lien is against real property owned by the debtor before a petition for debtor relief was filed under federal bankruptcy law and:

(1) the debt or obligation evidenced by the judgment is not discharged in bankruptcy; or

(2) the property is not exempted in the bankruptcy and is abandoned during the bankruptcy.

Added by Acts 1993, 73rd Leg., ch. 313, Sec. 3, eff. Sept. 1, 1993.