

Amendment to 55.205

White Paper

In 2005, five years after the judgment lien statute, F.S. 55.200 *et sec.*, was enacted, the used car dealers succeeded in amending Section 319.27 regarding notation of liens on certificates of title. The effect of the amendments made clear that the section applies to judgment liens.

Amended s. 319.27 states:

“(2) No...nonpossessory lien...upon a motor vehicle or mobile home upon which a Florida certificate of title has been issued shall be enforceable in any of the courts of this state against creditors or subsequent purchasers for valuable consideration and without notice, unless a sworn notice of such lien has been filed in the department and such lien has been noted upon the certificate of title of the motor vehicle or mobile home...”

The result is that the car can be sold free of the judgment lien and current judgment lien statute is misleading because it does not cross-reference the certificate statute. Countless lawyers and judgment creditors have been surprised to discover that their judgment liens on motor vehicles and mobile homes are limited in effect by amended s.319.27. Accordingly, for clarity, we recommend amending the judgment lien statute explicitly to cross-reference the limiting effect of that section.

It is significant that s. 319.27 does not say that a nonpossessory lien is invalid if not noted on the certificate of title. All it says is that such a lien is not enforceable against creditors and subsequent purchasers for value without notice. Clearly, the lien is otherwise enforceable, meaning it is enforceable against the judgment debtor. So, just as any judgment creditor, with or without a judgment lien, can execute on a motor vehicle or mobile home, so can a judgment creditor holding a nonpossessory judgment lien.

Accordingly, we recommend the addition of the following subparagraph to s. 55.205:

55.205 Effect of judgment lien.—

(5) Motor Vehicles and Motor Homes. If the personal property of the judgment debtor includes a motor vehicle or motor home for which a Florida certificate of title has been issued, a judgment lien on such property is valid and enforceable against the debtor, but a judgment lien is not enforceable against creditors or subsequent purchasers of such property for valuable consideration whose interests have been noted on the certificate of title as provided in s. 319.27.