

SENATE FILE NO. SF0124

Frivolous liens.

Sponsored by: Senator(s) Perkins and Representative(s)
Stubson

A BILL

for

1 AN ACT relating to liens; providing a process for a
2 governmental official or employee to seek discharge of
3 groundless liens; specifying procedures; providing for
4 discharge of the claim of lien; specifying applicability;
5 and providing for an effective date.

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7 *Be It Enacted by the Legislature of the State of Wyoming:*

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9 **Section 1.** W.S. 29-1-601(b)(intro), (iv) and by
10 creating a new subsection (d) is amended to read:

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12 **29-1-601. False or frivolous liens; damages;**
13 **penalties.**

14

15 (b) Any person whose real or personal property is
16 subject to a recorded claim of lien who believes the claim

1 of lien ~~is invalid under subsection (a) of this section,~~
2 was forged, or that the lien claimant knew at the time of
3 filing that the lien was groundless, contained a material
4 misstatement or false claim, may petition the court having
5 jurisdiction over the lien of the county in which the claim
6 of lien has been recorded for the relief provided in this
7 subsection. The petition shall state the grounds upon
8 which relief is requested, and shall be supported by the
9 affidavit of the petitioner or his attorney setting forth a
10 concise statement of the facts upon which the motion is
11 based. The clerk of court shall assign a case number to the
12 petition and obtain from the petitioner a filing fee of
13 thirty-five dollars (\$35.00). Upon the filing of the
14 petition the following shall apply:

15

16 (iv) If, following a hearing on the matter the
17 court determines that the claim of lien ~~is invalid under~~
18 ~~subsection (a) of this section,~~ was forged or that the lien
19 claimant knew at the time of filing that the lien was
20 groundless or contained a material misstatement or false
21 claim, the court shall issue an order striking and
22 releasing the claim of lien and awarding damages of one
23 thousand dollars (\$1,000.00) or actual damages, whichever

1 is greater, costs and reasonable attorneys' fees to the
2 petitioner to be paid by the lien claimant;

3
4 (d) Any federal, state or local official or employee
5 whose real or personal property is subject to a recorded
6 claim of lien who believes the claim of lien is invalid
7 under subsection (a) of this section may file an affidavit
8 with the county clerk stating that the claim of lien has
9 been filed against him in his individual capacity for the
10 performance or nonperformance of actions in his capacity as
11 a government official or employee. The person alleging the
12 claim of lien was filed in violation of subsection (a) of
13 this section shall provide notice of the filing of the
14 affidavit to the lien claimant at the address provided on
15 the lien statement pursuant to W.S. 29-1-312(b) by first
16 class mail. Upon the filing of the affidavit, the lien
17 claimant shall have thirty (30) days to file a petition in
18 a court of competent jurisdiction stating that the claim of
19 lien is valid under the laws of the United States or of the
20 state of Wyoming. If the lien claimant fails to file the
21 petition within the time specified, the claim of lien shall
22 be stricken and released. Upon the filing of the petition
23 by the lien claimant the following shall apply:

1 (i) The court may enter its order directing the
2 lien claimant to appear before the court at a time no
3 earlier than six (6) nor later than fifteen (15) days
4 following the date of service of the petition, and order
5 the lien claimant to show cause, if any, why the relief
6 provided in this subsection should not be granted;

7
8 (ii) The order shall clearly state that if the
9 lien claimant fails to appear at the time and place noted,
10 the claim of lien shall be stricken and released, and that
11 the lien claimant shall be ordered to pay damages of one
12 thousand dollars (\$1,000.00) or actual damages, whichever
13 is greater, and the costs incurred by the petitioner,
14 including reasonable attorneys' fees;

15
16 (iii) If, following a hearing on the matter the
17 court determines that the claim of lien is invalid under
18 subsection (a) of this section the court shall issue an
19 order striking and releasing the claim of lien and awarding
20 damages of one thousand dollars (\$1,000.00) or actual
21 damages, whichever is greater, costs and reasonable
22 attorneys' fees to the petitioner to be paid by the lien
23 claimant;

24

1 (iv) If the court determines that the claim of
2 lien is valid, the court shall issue an order so stating
3 and shall award costs and reasonable attorneys' fees to the
4 lien claimant to be paid by the petitioner.

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6 **Section 3.** This act shall apply to all liens filed on
7 or after July 1, 2013.

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9 **Section 4.** This act is effective July 1, 2013.

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11 (END)