

House Bill 2551

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Secretary of State to maintain Statewide Lien Register. Allows state agencies that have authority to issue warrants to transmit notice of lien to Secretary of State for filing in register. Specifies effect of filing notice of lien. Allows state agencies to amend notice of lien. Allows state agencies to release, subordinate or extend lien. Requires state agency to release lien when debt on which warrant is based is satisfied. Allows Secretary of State to specify format for notice or certificate and manner in which state agencies transmit notice or certificate for filing in register.

A BILL FOR AN ACT

1
2 Relating to a statewide lien register.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 to 11 of this 2011 Act are added to and made a part of ORS**
5 **chapter 87.**

6 **SECTION 2. (1) The Secretary of State shall maintain a Statewide Lien Register for the**
7 **purpose of filing notices of lien under warrants described in section 3 of this 2011 Act. Only**
8 **state agencies may transmit notices of lien to the Secretary of State for filing in the State-**
9 **wide Lien Register.**

10 **(2)(a) The Secretary of State shall maintain the Statewide Lien Register as an electronic**
11 **database to which the public has access through the Internet under the conditions specified**
12 **in paragraph (b) of this subsection.**

13 **(b) The Secretary of State shall provide the public with access to information concerning**
14 **notices of lien the Secretary of State files in the Statewide Lien Register under the same**
15 **conditions, in the same form and to the same extent that the Secretary of State provides**
16 **information on financing statements the Secretary of State files under ORS chapter 79.**

17 **SECTION 3. (1) A state agency that has authority to issue a warrant to collect a tax or**
18 **debt owed to the State of Oregon, including but not limited to a warrant that a state agency**
19 **issues under ORS 179.655, 267.385, 293.250, 314.430, 316.207, 319.182, 319.742, 320.080, 321.570,**
20 **323.390, 323.610, 324.190, 411.703, 657.396, 657.642, 705.175 or 825.504, may transmit an elec-**
21 **tronic notice of lien for the warrant to the Secretary of State for filing with the Statewide**
22 **Lien Register. The state agency may transmit a single notice of lien for two or more war-**
23 **rants against a debtor.**

24 **(2) A state agency must include in a notice of lien that the state agency transmits to the**
25 **Secretary of State:**

26 **(a) The debtor's name and last-known address;**

27 **(b) The state agency's name and address and information about the state agency that**
28 **allows an interested person to contact the state agency about the debt, the notice or the**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 warrant;

2 (c) The balance due on the debt;

3 (d) The rate of and manner in which interest accrues on the debt, the date from which
4 interest accrues and the principal upon which interest accrues; and

5 (e) Other information the Secretary of State requires.

6 (3) A state agency may transmit a notice of lien to the Secretary of State at any time
7 after the state agency issues a warrant.

8 (4) The Secretary of State shall post the information necessary to contact a state agency
9 that has filed a notice of lien under this section on the website by means of which the public
10 has access to the Statewide Lien Register.

11 **SECTION 4.** (1) The Secretary of State shall note in the Statewide Lien Register when
12 the Secretary of State receives from a state agency a notice of lien that meets the require-
13 ments specified under section 9 of this 2011 Act. The Secretary of State's notation files the
14 notice of lien and creates a lien in favor of the state agency on the debtor's real and personal
15 property as of the time of filing. The lien is for the amount of the debt owed on the warrant
16 for which the state agency transmitted the notice of lien.

17 (2) At the time the Secretary of State files the notice of lien in the Statewide Lien Reg-
18 ister, a lien created under subsection (1) of this section has the same lien effect that re-
19 cording a judgment under ORS 18.152 in all of the County Clerk Lien Records for the counties
20 of this state would have.

21 (3)(a) A lien created under subsection (1) of this section is subordinate to an interest in
22 personal property to the same extent that a security agreement for the personal property
23 that is perfected by filing under the Uniform Commercial Code would be subordinate to the
24 interest if the security agreement were perfected by filing at the same time as the time at
25 which the Secretary of State filed the notice of lien in the Statewide Lien Register.

26 (b) Unless the purchaser, security interest holder or lienholder has actual knowledge of
27 a lien created under subsection (1) of this section, the lien is not valid against a security
28 interest holder's security agreement for, a lienholder's or attorney's lien on or a sale of:

29 (A) A security, as defined in ORS 78.1020;

30 (B) A retail purchase in the ordinary course of business;

31 (C) Personal property in a casual sale;

32 (D) An insurance contract loan; or

33 (E) A passbook loan.

34 (c) A lien created under subsection (1) of this section is in addition to and not in lieu of
35 another lien or remedy available to a state agency.

36 **SECTION 5.** (1) A state agency has transmitted a notice of lien for filing under section
37 3 of this 2011 Act may transmit an electronic notice of amendment for the previously filed
38 notice of lien to the Secretary of State for filing in the Statewide Lien Register. The Secre-
39 tary of State shall note when the Secretary of State receives the notice of amendment and
40 shall file the notice of amendment in the manner provided for filing a notice of lien under
41 section 4 of this 2011 Act.

42 (2)(a) Filing a notice of amendment for a lien on real property has the same effect on the
43 previously filed lien as rerecording a mortgage or trust deed in the County Clerk Lien Record
44 would have on a previously recorded mortgage or trust deed.

45 (b) A state agency may transmit and the Secretary of State may file a notice of amend-

1 ment only for changes in the lien on real property that could be made in a previously re-
 2 corded mortgage or trust deed by rerecording the mortgage or trust deed in the County
 3 Clerk Lien Record.

4 (3) A notice of amendment must include the debtor's name, the date on which the Sec-
 5 retary of State filed the original notice of lien and other information the Secretary of State
 6 requires.

7 **SECTION 6.** (1) A state agency that has transmitted a notice of lien for filing under
 8 section 3 of this 2011 Act may transmit an electronic release of lien or an electronic subor-
 9 dination of lien to the Secretary of State for filing in the Statewide Lien Register. The Sec-
 10 retary of State shall note when the Secretary of State receives the release of lien or
 11 subordination of lien and shall file the release of lien or subordination of lien in the manner
 12 provided for filing a notice of lien under section 4 of this 2011 Act.

13 (2) A state agency may release or subordinate a lien created under section 4 of this 2011
 14 Act to the same extent that the state agency may release or subordinate other liens that
 15 are based on warrants that the state agency issued. The release of lien or subordination of
 16 lien must specifically identify the notice of lien to be released or subordinated and must in-
 17 clude information the Secretary of State requires. The release of lien may be for all or a part
 18 of the debtor's property.

19 **SECTION 7.** (1) Except as otherwise provided in this section, a lien created under section
 20 4 of this 2011 Act expires 10 years after the Secretary of State files the notice of lien.

21 (2) At any time before a lien expires as provided in subsection (1) of this section, a state
 22 agency may transmit a certificate of extension for the lien to the Secretary of State for filing
 23 in the Statewide Lien Register. The Secretary of State shall note when the Secretary of State
 24 receives the certificate of extension and shall file the certificate of extension in the manner
 25 provided for filing a notice of lien under section 4 of this 2011 Act. If the state agency
 26 transmits the certificate of extension after the lien expires as provided in subsection (1) of
 27 this section, filing the extension of lien has no effect. The certificate of extension must in-
 28 clude information the Secretary of State requires.

29 (3) If a state agency transmits a certificate of extension for a previously filed notice of
 30 lien before the lien expires as provided in subsection (1) of this section, the lien expires 10
 31 years after the Secretary of State files the certificate of extension. A state agency may ex-
 32 tend a lien under the provisions of this section only once.

33 **SECTION 8.** A state agency that has transmitted a notice of lien for filing under section
 34 3 of this 2011 Act shall transmit a release of lien to the Secretary of State for filing in the
 35 Statewide Lien Register as soon as is practicable after the debt on which the lien is based
 36 is satisfied. The Secretary of State shall note when the Secretary of State receives the re-
 37 lease of lien and shall file the release of lien in the manner provided for filing a notice of lien
 38 under section 4 of this 2011 Act. After the state agency releases the lien, the Secretary of
 39 State shall eliminate all references to the lien from the Statewide Lien Register within a
 40 period of time the Secretary of State establishes.

41 **SECTION 9.** (1) The Secretary of State shall specify the format for a notice or certificate
 42 that a state agency transmits for filing in the Statewide Lien Register and the manner in
 43 which the state agency must transmit the notice or certificate. The Secretary of State shall
 44 file a notice or certificate only if the state agency has transmitted the notice or certificate
 45 in the format and manner that the Secretary of State specifies.

1 **(2) The Secretary of State may establish a fee for accepting a notice or certificate that**
2 **a state agency transmits to the Secretary of State for filing in the Statewide Lien Register.**
3 **The Secretary of State may establish a fee for providing access to or information from the**
4 **Statewide Lien Register.**

5 **SECTION 10.** **The Secretary of State may adopt rules for implementing the provisions of**
6 **sections 2 to 9 of this 2011 Act.**

7 **SECTION 11.** **A state agency may transmit a notice of lien under section 3 of this 2011**
8 **Act and the Secretary of State may file the notice of lien under section 4 of this 2011 Act for**
9 **any warrant the state agency issues before, on or after the effective date of this 2011 Act.**

10