

## In Practice

# New law says file money judgments with DOS

By James W. Martin

A new law requiring money judgments to be filed with the Florida Department of State changes old Florida law requiring money judgments to be filed with the county sheriff. It has long been the law in Florida that money judgments become liens on personal property in a county when writs of execution are docketed on the sheriff's levy docket.

All of this changes on October 1, 2001, the effective date of newly created F.S. §§55.201-.209 (Ch. 2000-258, Laws of Florida). The new law charges the Florida Department of State with maintaining a state database of judgment lien records. It directs that sheriffs cease docketing writs of execution on that date. It further requires all judgment creditors who delivered writs of execution to a sheriff prior to that date to refile with the Department of State before October 1, 2003, or their liens are deemed abandoned.

The new law will greatly simplify the procedure for acquiring a statewide lien on all personal property of a judgment debtor. Instead of filing in every county, a judgment holder under the new law acquires a lien on all personal property of the judgment debtor subject to execu-

C. The Social Security number or federal identification number of each judgment debtor.

D. The legal name of the judgment creditor. If it is a recorded legal entity in Florida, the certificate must include its registered name and Florida Department of State document number.

E. The address of the judgment creditor.

F. The Social Security number or federal employer identification number (tax ID) number of the judgment creditor.

G. The court, case number, and date the written judgment was entered.

H. The amount due on the judgment, and the applicable interest rate.

I. The signature of the judgment creditor or its attorney or representative.

3. The judgment lien certificate is filed with the Florida Department of State.

The new law applies to all judgments whether entered by Florida state courts, Florida federal courts, any other state's courts, any other federal courts, or any foreign state's courts. It also permits tax liens and assessments of the State of Florida and its political subdivisions to be included in the database.

an interest in personal property subject to execution in Florida.

The law includes provisions for duration of the lien (five years, except 20 years for tax liens and child support liens), second judgment liens, priorities as to other liens, amendment, termination, partial release, correction and abandonment.

Note that the new law only applies to personal property and not to real property. Florida Statutes §55.10 still requires recording a certified copy of a judgment with the Clerk of Court to become a lien on real property located in that county. (The new law amends that statute to extend the duration of the renewal period of the lien on real property from seven years to 10 years.)

As with any new law, glitches will appear before it becomes effective a year from now on October 1, 2001. One such glitch is the requirement to include Social Security numbers in the judgment lien certificate. The first problem is that the Federal Privacy Act of 1974 (Pub. L. 93-579) generally prohibits government agencies from requiring disclosure of Social Security numbers. With few exceptions, the Privacy Act makes it "unlawful for any federal, state or local

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ment lien certificate is that the judgment holder might not know the debtor's SSN. The only exception in the new law for excluding the SSN is if the judgment was obtained by default. It is even less likely that the holder of a default judgment would know the debtor's SSN since discovery probably was not taken before entry of the default.

Another glitch is that the new law requires the department to index judgment lien certificates by judgment debtor names but says nothing about judgment creditor names.

Any attorney who has tried to check a client's writs of execution on file with the department knows the value of indexing by creditor names.

Originally, the department will voluntarily index by both judgment debtor and creditor names. A glitch bill will be passed to correct this omission.

In all the new law will benefit the public by providing a single database to search for judgment liens on personal property in Florida, long a public access to public records. The department's decision to entrust this task to the hands of the Florida Department of State is well-placed. The department has for many years, with great success and admiration, handled the astounding task of maintaining the databases of the state's corporations and myriad UCC filings. In more recent years, it has been given the responsibility of maintaining statewide databases for business names, partnerships, and liens.

In every case the transition was handled efficiently. The databases maintained by the Department of State, with full Internet search and document access capabilities, are modern throughout the land. Once again Florida leads the nation in public access records.

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the Social Security number in the judgment records.

## Scheck to lead Orange County Bar YLS

Paul Scheck has been elected president of the Young Lawyers Section of the Orange County Bar Association for the 2000-2001 term.

Scheck, a resident of Orlando, is also a member of Bar's Young Lawyers Division Board of Governors and is past chair of the Orange County Bar Association's Law Week Committee and Ask-a-Lawyer Program. He has provided pro-bono services as a guardian



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ad litem in Orange County for the past five years.

The Young Lawyers Section of the Orange County Bar Association was created to meet the needs of OCBA members who have been practicing law for five years or less. Through the organization, young lawyers are given the opportunity to develop practical skills and professionalism early in their careers. The Young Lawyers Section offers several programs which help young attorneys succeed and gain professional advantage by introducing them to experienced practitioners, trial lawyers, corporate counsel, judges and other young lawyers.

## Small to lead Palm Beach young lawyers

The Young Lawyers Section of the Palm Beach County Bar recently installed Lisa Small as its new president.

Other officers and directors include President-elect Jon Gerber, Secretary Scott Murray, and Treasurer Alicia Trinley. The immediate past president is Jo Ann Kotzen.

The section provides numerous services for the community, including the nationally recognized and award-winning Youth Court Program; the Michelle

Project, a program that acquires new and used computers for foster children; Holidays-in-January, a program for foster children under the care of Department of Children and Families Services; and the Child Friendly Room.



SMALL