

1 HB583  
2 200565-1  
3 By Representatives Hurst and Johnson  
4 RFD: Judiciary  
5 First Read: 07-MAY-19

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8       SYNOPSIS:               Under existing law, the owner of a judgment  
9                               may file in the office of the judge of probate of  
10                              any county in this state a certificate of clerk or  
11                              register of the court by which the judgment was  
12                              entered, showing the court name, the amount of the  
13                              judgment and costs, and the names of the parties.  
14                              Every judgment that is properly filed constitutes a  
15                              lien in the county in which it is filed against the  
16                              property of the defendant which is subject to levy  
17                              and sale under execution.

18                              Also under existing law, there is no  
19                              requirement that a judgment creditor whose judgment  
20                              has been satisfied file an acknowledgment of  
21                              satisfaction of the judgment to remove the lien.

22                              This bill would provide that when a money  
23                              judgment is satisfied, the judgment creditor is  
24                              required to file an acknowledgment of satisfaction  
25                              of the judgment with the court and serve a notice  
26                              of that acknowledgment with the judgment debtor.

1                   This bill would provide a procedure where  
2                   the judgment debtor may demand that the judgment  
3                   creditor file an acknowledgment of satisfaction of  
4                   the judgment with the court when the judgment  
5                   creditor's judgment has been satisfied.

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7                   A BILL  
8                   TO BE ENTITLED  
9                   AN ACT

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11                   Relating to civil actions; to add Sections 6-9-213  
12                   through 6-9-222 to the Code of Alabama 1975, to provide a  
13                   procedure for the satisfaction of judgments.

14                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15                   Section 1. Sections 6-9-213 through 6-9-222 are  
16                   added to Article 9 of Chapter 9 of Title 6 of the Code of  
17                   Alabama 1975, to read as follows:

18                   §6-9-213.

19                   (a) A money judgment may be satisfied by payment of  
20                   the full amount required to satisfy the judgment or by  
21                   acceptance by the judgment creditor of a lesser sum in full  
22                   satisfaction of the judgment.

23                   (b) Where a money judgment is satisfied by levy, the  
24                   obligation of the judgment creditor to give or file an  
25                   acknowledgment of satisfaction arises only when the judgment  
26                   creditor has received the full amount required to satisfy the  
27                   judgment from the levying officer.

1           (c) Where a money judgment is satisfied by payment  
2 to the judgment creditor by check or other form noncash  
3 payment that is to be honored upon presentation by the  
4 judgment creditor for payment, the obligation of the judgment  
5 creditor to give or file an acknowledgment of judgment arises  
6 only when the check or other form of noncash payment has  
7 actually been honored upon presentation for payment.

8           §6-9-214.

9           The court clerk shall enter satisfaction of a money  
10 judgment in the register of actions when any of the following  
11 occur:

12           (1) A writ is returned satisfied for the full amount  
13 of a lump-sum judgment.

14           (2) An acknowledgment of satisfaction of judgment is  
15 filed with the court.

16           (3) The court orders entry of satisfaction of  
17 judgment.

18           §6-9-215.

19           When a money judgment is satisfied, the judgment  
20 creditor immediately shall file with the court an  
21 acknowledgment of satisfaction of judgment.

22           §6-9-216.

23           If an abstract of a money judgment has been recorded  
24 with the recorder of any county and the judgment is satisfied,  
25 the judgment creditor shall immediately do both of the  
26 following:

1           (1) File an acknowledgment of satisfaction of  
2 judgment with the court.

3           (2) Serve an acknowledgment of satisfaction of  
4 judgment on the judgment debtor. Service shall be made  
5 personally or by mail.

6           §6-9-217.

7           (a) If a money judgment has been satisfied, the  
8 judgment debtor, the owner of real or personal property  
9 subject to a judgment lien created under the judgment, or a  
10 person having a security interest in or a lien on personal  
11 property subject to a judgment lien created under the judgment  
12 may serve personally or by mail on the judgment creditor a  
13 demand in writing that the judgment do one or both of the  
14 following:

15           (1) File an acknowledgment of satisfaction of  
16 judgment with the court.

17           (2) Execute, acknowledge, and deliver an  
18 acknowledgment of satisfaction of judgment to the person who  
19 made the demand.

20           (b) The demand shall include the following  
21 statement: "Important warning. If this judgment has been  
22 satisfied, the law requires that you comply with this demand  
23 not later than 15 days after you receive it. If a court  
24 proceeding is necessary to compel you to comply with this  
25 demand, you will be required to pay my reasonable attorney's  
26 fees in the proceeding if the court determines that the  
27 judgment has been satisfied and that you failed to comply with

1 the demand. In addition, if the court determines that you  
2 failed without just cause to comply with this demand within  
3 the 15 days allowed, you will be liable for all damages I  
4 sustain by reason of your failure and you will also forfeit  
5 one hundred dollars (\$100) to me."

6 (c) If the judgment has been satisfied, the judgment  
7 creditor shall comply with the demand not later than 15 days  
8 after actual receipt of the demand.

9 (d) If the judgment creditor does not comply with  
10 the demand within the time allowed, the person making the  
11 demand may apply to the court on noticed motion for an order  
12 requiring the judgment creditor to comply with the demand. The  
13 notice of motion shall be served on the judgment creditor.  
14 Service shall be made personally or by mail. If the court  
15 determines that the judgment creditor has not complied with  
16 the demand, the court shall either order the judgment creditor  
17 to comply with the demand or order the court clerk to end  
18 satisfaction of the judgment.

19 (e) If the judgment has been satisfied and the  
20 judgment creditor fails without just cause to comply with the  
21 demand within the time allowed, the judgment creditor is  
22 liable to the person who made the demand for all damages  
23 sustained by reason of such failure and shall also forfeit one  
24 hundred dollars (\$100) to the person.

25 §6-9-218.

26 If an abstract of a money judgment has been recorded  
27 with the recorder of any county and the judgment is satisfied,

1 the judgment creditor shall immediately do both of the  
2 following:

3 (1) File an acknowledgment of satisfaction of  
4 judgment with the court.

5 (2) Serve an acknowledgment of satisfaction of  
6 judgment on the judgment debtor. Service shall be made  
7 personally or by mail.

8 §6-9-219.

9 (a) An acknowledgment of satisfaction of judgment  
10 shall contain all of the following information:

11 (1) The title of the court.

12 (2) The cause and number of the action.

13 (3) The names and addresses of the judgment  
14 creditor, the judgment debtor, and the assignee of record if  
15 any. If an abstract of judgment has been recorded in any  
16 county, the judgment debtor's name shall appear on the  
17 acknowledgment of satisfaction of judgment as it appears on  
18 the abstract of judgment.

19 (4) The date of entry of judgment and of any  
20 renewals of the judgment and where entered in the records of  
21 the court.

22 (5) A statement that the judgment is satisfied in  
23 full or that the judgment creditor has accepted payment or  
24 performance other than that specified in the judgment in full  
25 satisfaction of the judgment.

26 (6) A statement whether an abstract of the judgment  
27 has been recorded in any county and, if so, a statement of

1 each county where the abstract has been recorded and the book  
2 and page of the county records where the abstract has been  
3 recorded, and a notice that the acknowledgment of satisfaction  
4 of judgment, or a court clerk's certificate of satisfaction of  
5 judgment, will have to be recorded with the county recorder of  
6 each county where the abstract of judgment has been recorded  
7 in order to release the judgment lien on real property in that  
8 county.

9 (7) A statement whether a notice of judgment lien  
10 has been filed in the office of the Secretary of State and, if  
11 the notice has been filed, a statement of the file number of  
12 the notice, and a notice that the acknowledgment of  
13 satisfaction of judgment, or a court clerk's certificate of  
14 judgment, will have to be filed in that office in order to  
15 terminate the judgment on personal property.

16 (b) The acknowledgment of satisfaction of judgment  
17 shall be made in the manner of an acknowledgment of a  
18 conveyance of real property.

19 (c) The acknowledgment of satisfaction of judgment  
20 shall be executed and acknowledged by one of the following:

21 (1) The judgment creditor.

22 (2) The assignee of record.

23 (3) The attorney for the judgment creditor or  
24 assignee of record unless a revocation of the attorney's  
25 authority is filed.

26 §6-9-220.



1 (a) If a judgment creditor intentionally conditions  
2 delivery of an acknowledgment of satisfaction of judgment upon  
3 the performance of any act or the payment of an amount in  
4 excess of that to which the judgment creditor is entitled  
5 under the judgment, the judgment creditor is liable to the  
6 judgment debtor for all damages sustained by reason of the  
7 action or five hundred dollars (\$500), whichever is greater.

8 (b) Subsection (a) does not apply if the judgment  
9 creditor has agreed to deliver an acknowledgment of  
10 satisfaction of judgment to the judgment debtor prior to full  
11 satisfaction of the judgment in consideration for the judgment  
12 debtor's agreement to either furnish security or to execute a  
13 promissory note, or both, the principal amount of which does  
14 not exceed the amount to which the judgment creditor is  
15 entitled under the judgment.

16 §6-9-221.

17 In an action or proceeding maintained under this  
18 article, the court shall award reasonable attorney's fees to  
19 the prevailing party.

20 §6-9-222.

21 (a) If satisfaction of a judgment has been entered  
22 in the register of actions, the court clerk shall issue a  
23 certificate of satisfaction of judgment upon application and  
24 payment of a twenty-five dollar (\$25) fee.

25 (b) The certificate of satisfaction of judgment  
26 shall contain all of the following information:

27 (1) The title of the court.

1                   (2) The cause and number of the action.

2                   (3) The names of the judgment creditor and the  
3 judgment debtor.

4                   (4) The date of entry of judgment and of any  
5 renewals of the judgment and where entered in the records of  
6 the court.

7                   (5) The date of entry of satisfaction of judgment  
8 and where it was entered in the register of actions.

9                   Section 2. This act shall become effective on the  
10 first day of the third month following its passage and  
11 approval by the Governor, or its otherwise becoming law.