

GOVERNMENT CODE

SUBTITLE D. JUDICIAL PERSONNEL AND OFFICIALS

CHAPTER 51. CLERKS

SUBCHAPTER J[0]. CERTAIN FRAUDULENT RECORDS OR DOCUMENTS

§ 51.901. FRAUDULENT DOCUMENT OR INSTRUMENT. (a) If a clerk of the supreme court, clerk of the court of criminal appeals, clerk of a court of appeals, district clerk, county clerk, district and county clerk, or municipal clerk has a reasonable basis to believe in good faith that a document or instrument previously filed or recorded or offered or submitted for filing or for filing and recording is fraudulent, the clerk shall:

(1) if the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court, provide written notice of the filing, recording, or submission for filing or for filing and recording to the stated or last known address of the person against whom the purported judgment, act, order, directive, or process is rendered; or

(2) if the document or instrument purports to create a lien or assert a claim on real or personal property or an interest in real or personal property, provide written notice of the filing, recording, or submission for filing or for filing and recording to the stated or last known address of the person named in the document or instrument as the obligor or debtor and to any person named as owning any interest in the real or personal property described in the document or instrument.

(b) A clerk shall provide written notice under Subsection (a):

(1) not later than the second business day after the date that the document or instrument is offered or submitted for filing or for filing and recording; or

(2) if the document or instrument has been previously filed or recorded, not later than the second business day after the date that the clerk becomes aware that the document or instrument may be fraudulent.

(c) For purposes of this section, a document or instrument is presumed to be fraudulent if:

(1) the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of:

(A) a purported court or a purported judicial entity not expressly created or established under the constitution or the laws of this state or of the United States; or

(B) a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A); or

(2) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and:

(A) is not a document or instrument provided for by the constitution or laws of this state or of the United States;

(B) is not created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if required under the laws of this state, or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person; or

(C) is not an equitable, constructive, or other lien imposed by a court with jurisdiction created or established under the constitution or laws of this state or of the United States.

(d) If a county clerk believes in good faith that a document filed with the county clerk to create a lien is fraudulent, the clerk shall:

(1) request the assistance of the county or district attorney to determine whether the document is fraudulent before filing or recording the document;

(2) request that the prospective filer provide to the county clerk additional documentation supporting the existence of the lien, such as a contract or other document that contains the alleged debtor or obligor's signature; and

(3) forward any additional documentation received to the county or district attorney.

Added by Acts 1997, 75th Leg., ch. 189, § 14, eff. May 21, 1997.
Amended by Acts 2005, 79th Leg., ch. 407, § 1, eff. Sept. 1, 2005.

§ 51.902. ACTION ON FRAUDULENT JUDGMENT LIEN. (a) A person against whom a purported judgment was rendered who has reason to believe that a document previously filed or recorded or submitted for filing or for filing and recording is fraudulent may complete and file with the district clerk a motion, verified by affidavit by a completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, that contains, at a minimum, the information in the following suggested form:

MISC. DOCKET NO. _____
In Re: A Purported Judgment Lien Against _____
(Name of Purported Debtor) In the _____ Judicial District
In and For _____
County, Texas

Motion for Judicial Review of a Documentation Purporting to Create
a Judgment Lien

Now Comes (name) and files this motion requesting a judicial determination of the status of a court, judicial entity, or judicial officer purporting to have taken an action that is the basis of a judgment lien filed in the office of said clerk, and in support of the motion would show the court as follows:

I.

(Name), movant herein, is the person against whom the purported judgment was rendered.

II.

On (date), in the exercise of the county clerk's official duties as County Clerk of (county name) County, Texas, the county clerk received and filed or filed and recorded the documentation attached hereto and containing (number) pages. Said documentation purports to have been rendered on the basis of a judgment, act, order, directive, or process of a court, judicial entity, or judicial officer called therein "(name of purported court, judicial entity, or judicial officer)" against one (name of purported debtor).

III.

Movant alleges that the purported court, judicial entity, or judicial officer referred to in the attached documentation is one described in Section 51.901(c)(1), Government Code, as not legally created or established under the constitution or laws of this state or of the United States, and that the documentation should therefore not be accorded lien status.

IV.

Movant further attests that the assertions contained herein are true and correct.

PRAYER

Movant requests the court to review the attached documentation and enter an order determining whether it should be accorded lien status, together with such other orders as the court deems appropriate.

Respectfully submitted,

(Signature and typed name and address)

(b) The completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, must be as follows:

THE STATE OF TEXAS

AFFIDAVIT

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

"My name is _____. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before me, this _____ day of _____, _____.

NOTARY PUBLIC, State of Texas

Notary's printed name:

My commission expires:

(c) A motion filed under this section may be ruled on by a district judge having jurisdiction over real property matters in the county where the subject documentation was filed. The court's finding may be made solely on a review of the documentation attached to the movant's motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. The court's ruling on the motion, in the nature of a finding of fact and a conclusion of law, is unappealable if it is substantially similar to the form suggested in Subsection (g).

(d) The district clerk may not collect a filing fee for filing a motion under this section.

(e) After reviewing the documentation attached to a motion under this section, the district judge shall enter an appropriate finding of fact and conclusion of law, which must be filed and indexed in the same class of records in which the subject documentation or instrument was originally filed.

(f) The county clerk may not collect a filing fee for filing a district judge's finding of fact and conclusion of law under this section.

(g) A suggested form order appropriate to comply with this section is as follows:

MISC. DOCKET NO. _____

In Re: A Purported
Judgment Lien Against
(Name of Purported Debtor)

In the _____ Judicial District
In and For _____
County, Texas

Judicial Finding of Fact and Conclusion of Law Regarding a
Documentation Purporting to Create a Judgment Lien

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion verified by affidavit of (name) and the documentation attached thereto. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the documentation under the authority vested in the court under Subchapter [J10](#), [Chapter101 51101](#), Government Code.

The court finds as follows (only an item checked and initialed is a valid court ruling):

_____ The documentation attached to the motion herein refers to a legally constituted court, judicial entity, or judicial officer created by or established under the constitution or laws of this state or of the United States. This judicial finding and conclusion of law does not constitute a finding as to any underlying claims of the parties.

_____ The documentation attached to the motion herein DOES NOT refer to a legally constituted court, judicial entity, or judicial officer created by or established under the constitution or laws of this state or of the United States. There is no valid judgment lien created by the documentation.

This court makes no finding as to any underlying claims of the parties involved and expressly limits its finding of fact and conclusion of law to a ministerial act. The county clerk shall file this finding of fact and conclusion of law in the same class of records as the subject documentation was originally filed, and the court directs the county clerk to index it using the same names that were used in indexing the subject document.

SIGNED ON THIS THE _____ DAY OF _____.

DISTRICT JUDGE

_____ JUDICIAL DISTRICT

_____ COUNTY, TEXAS

Added by Acts 1997, 75th Leg., ch. 189, § 14, eff. May 21, 1997.

§ 51.903. ACTION ON FRAUDULENT LIEN ON PROPERTY. (a) A person who is the purported debtor or obligor or who owns real or personal property or an interest in real or personal property and who has reason to believe that the document purporting to create a lien or a claim against the real or personal property or an interest in the real or personal property previously filed or submitted for filing and recording is fraudulent may complete and file with the district clerk a motion, verified by affidavit by a completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, that contains, at a minimum, the information in the following suggested form:

MISC. DOCKET NO. _____

In Re: A Purported
Judgment Lien Against
(Name of Purported Debtor)

In the _____ Judicial District
In and For _____
County, Texas

Motion for Judicial Review of Documentation or Instrument
Purporting to Create a Lien or Claim

Now Comes (name) and files this motion requesting a judicial determination of the status of documentation or an instrument purporting to create an interest in real or personal property or a lien or claim on real or personal property or an interest in real or personal property filed in the office of the Clerk of (county name) County, Texas, and in support of the motion would show the court as follows:

I.

(Name), movant herein, is the purported obligor or debtor or person who owns the real or personal property or the interest in real or personal property described in the documentation or instrument.

II.

On (date), in the exercise of the county clerk's official duties as County Clerk of (county name) County, Texas, the county clerk received and filed and recorded the documentation or instrument attached hereto and containing (number) pages. Said documentation or instrument purports to have created a lien on real or personal property or an interest in real or personal property against one (name of purported debtor).

III.

Movant alleges that the documentation or instrument attached hereto is fraudulent, as defined by Section 51.901(c)(2), Government Code, and that the documentation or instrument should therefore not be accorded lien status.

IV.

Movant attests that assertions herein are true and correct.

V.

Movant does not request the court to make a finding as to any underlying claim of the parties involved and acknowledges that this motion does not seek to invalidate a legitimate lien. Movant further acknowledges that movant may be subject to sanctions, as provided by [Chapter 10](#), Civil Practice and Remedies Code, if this motion is determined to be frivolous.

PRAYER

Movant requests the court to review the attached documentation or instrument and enter an order determining whether it should be accorded lien status, together with such other orders as the court deems appropriate.

Respectfully submitted,

(Signature and typed name and address)

(b) The completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, must be as follows:

THE STATE OF TEXAS

AFFIDAVIT

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

"My name is _____. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before me, this _____ day of _____, _____.

NOTARY PUBLIC, State of Texas

Notary's printed name:

My commission expires:

(c) A motion under this section may be ruled on by a district judge having jurisdiction over real property matters in the county where the subject document was filed. The court's finding may be made solely on a review of the documentation or instrument attached to the motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. An appellate court shall expedite review of a court's finding under this section.

(d) The district clerk may not collect a filing fee for filing a motion under this section.

(e) After reviewing the documentation or instrument attached to a motion under this section, the district judge shall enter an appropriate finding of fact and conclusion of law, which must be filed and indexed in the same class of records in which the subject documentation or instrument was originally filed. A copy of the finding of fact and conclusion of law shall be sent, by first class mail, to the movant and to the person who filed the fraudulent lien or claim at the last known address of each person within seven days of the date that the finding of fact and conclusion of law is issued by the judge.

(f) The county clerk may not collect a fee for filing a district judge's finding of fact and conclusion of law under this section.

(g) A suggested form order appropriate to comply with this section is as follows:

MISC. DOCKET NO. _____

In Re: A Purported
Judgment Lien Against
(Name of Purported Debtor)

In the _____ Judicial District
In and For _____
County, Texas

Judicial Finding of Fact and Conclusion of Law Regarding a
Documentation or Instrument Purporting to Create a Lien or Claim

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name) and the documentation or instrument attached thereto. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the documentation or instrument under the authority vested in the court under Subchapter J[0], Chapter[0] 51[0], Government Code.

The court finds as follows (only an item checked and initialed is a valid court ruling):

_____ The documentation or instrument attached to the motion herein IS asserted against real or personal property or an interest in real or personal property and:

- (1) IS provided for by specific state or federal statutes or constitutional provisions;
- (2) IS created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if required under the laws of this state, or by consent of an agent, fiduciary, or other representative of that person; or
- (3) IS an equitable, constructive, or other lien imposed by a court of competent jurisdiction created or established under the constitution or laws of this state or of the United States.

_____ The documentation or instrument attached to the motion herein:

- (1) IS NOT provided for by specific state or federal statutes or constitutional provisions;
- (2) IS NOT created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if required under the law of this state or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person;
- (3) IS NOT an equitable, constructive, or other lien imposed by a court of competent jurisdiction created by or established under the constitution or laws of this state or the United States; or
- (4) IS NOT asserted against real or personal property or an interest in real or personal property. There is no valid lien or claim created by this documentation or instrument.

This court makes no finding as to any underlying claims of the parties involved, and expressly limits its finding of fact and conclusion of law to the review of a ministerial act. The county clerk shall file this finding of fact and conclusion of law in the same class of records as the subject documentation or instrument was originally filed, and the court directs the county clerk to index it using the same names that were used in indexing the subject documentation or instrument.

SIGNED ON THIS THE _____ DAY OF _____.

DISTRICT JUDGE
_____ JUDICIAL DISTRICT
_____ COUNTY, TEXAS

Added by Acts 1997, 75th Leg., ch. 189, § 14, eff. May 21, 1997.

§ 51.904. WARNING SIGN. A clerk described by Section 51.901(a) shall post a sign, in letters at least one inch in height, that is clearly visible to the general public in or near the clerk's office stating that it is a crime to intentionally or knowingly file a fraudulent court record or a fraudulent instrument with the clerk.

Added by Acts 1997, 75th Leg., ch. 189, § 14, eff. May 21, 1997.

§ 51.905. DOCUMENTS FILED WITH SECRETARY OF STATE. (a) If the lien or other claim that is the subject of a judicial finding of fact and conclusion of law authorized by this subchapter is one that is authorized by law to be filed with the secretary of state, any person may file a certified copy of the judicial finding of fact and conclusion of law in the records of the secretary of state, who shall file the certified copy of the finding in the same class of records as the subject document or instrument was originally filed and index it using the same names that were used in indexing the subject document or instrument.

(b) The secretary of state may charge a filing fee of \$15 for filing a certified copy of a judicial finding of fact and conclusion of law under this section.

Added by Acts 1997, 75th Leg., ch. 189, § 14, eff. May 21, 1997.