

CHAPTER.....

AN ACT relating to civil practice; authorizing the attachment of a lien to client files and other property for attorney’s fees under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the creation, perfection and attachment of a lien for attorney’s fees. Such a lien, commonly known as a “charging lien,” attaches to any verdict, judgment or decree entered and to any money or property which is recovered on account of a suit or other action for which an attorney rendered services on behalf of his or her client. (NRS 18.015) Common law provides for the attachment of a lien to a client’s files or other property left in the possession of the attorney in the event of a dispute over attorney’s fees. A fee dispute underlying such a lien, commonly known as a “retaining lien,” may only be resolved by a court if the client requests that the court extinguish the lien or if the client consents to the court’s adjudication of the lien. (*Argentina Consol. Mining Co. v. Jolley Urga Wirth Woodbury & Standish*, 125 Nev. 527 (2009)) This bill provides for the statutory creation, perfection and attachment of such a “retaining lien” for attorney’s fees. This bill also supersedes Nevada common law by providing that the rights under such a lien may be adjudicated by a court at the request of the attorney having the lien or any other party who has been served with notice of the lien, rather than only by request of the client whose files have been retained under the lien. Finally, this bill revises the provisions relating to the notice requirements for perfecting a lien.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 18.015 is hereby amended to read as follows:
18.015 1. An attorney at law shall have a lien ~~upon any~~ :

(a) ***Upon any*** claim, demand or cause of action, including any claim for unliquidated damages, which has been placed in the attorney’s hands by a client for suit or collection, or upon which a suit or other action has been instituted. ~~The~~

(b) ***In any civil action, upon any file or other property properly left in the possession of the attorney by a client.***

2. ***A lien pursuant to subsection 1*** is for the amount of any fee which has been agreed upon by the attorney and client. In the absence of an agreement, the lien is for a reasonable fee for the services which the attorney has rendered for the client . ~~for account of the suit, claim, demand or action.~~



~~—2.1~~ 3. An attorney perfects ~~the~~ a lien *described in subsection 1* by serving notice in writing, in person or by certified mail, return receipt requested, upon his or her client and , *if applicable*, upon the party against whom the client has a cause of action, claiming the lien and stating the ~~interest which the attorney has in any cause of action.~~

~~—3.~~ ~~The~~ amount of the lien.

4. A lien pursuant to:

(a) *Paragraph (a) of subsection 1* attaches to any verdict, judgment or decree entered and to any money or property which is recovered on account of the suit or other action ~~1~~ ; and

(b) *Paragraph (b) of subsection 1* attaches to any file or other property properly left in the possession of the attorney by his or her client, including, without limitation, copies of the attorney's file if the original documents received from the client have been returned to the client, and authorizes the attorney to retain any such file or property until such time as an adjudication is made pursuant to subsection 6,

↳ from the time of service of the notices required by this section.

~~14.1~~ 5. *A lien pursuant to paragraph (b) of subsection 1 must not be construed as inconsistent with the attorney's professional responsibilities to the client.*

6. On motion filed by an attorney having a lien under this section, the attorney's client or any party who has been served with notice of the lien, the court shall, after 5 days' notice to all interested parties, adjudicate the rights of the attorney, client or other parties and enforce the lien.

~~15.1~~ 7. Collection of attorney's fees by a lien under this section may be utilized with, after or independently of any other method of collection.

Sec. 2. The amendatory provisions of this act apply to any fee for the services of an attorney incurred by a client for services rendered before, on or after July 1, 2013.

Sec. 3. This act becomes effective on July 1, 2013.

