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**ENGROSSED SUBSTITUTE SENATE BILL 6270**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Esser, Haugen, Sheahan and Kline)

READ FIRST TIME 01/23/04.

1       AN ACT Relating to attorneys' liens; amending RCW 60.40.010; and  
2       creating a new section.

3       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4       NEW SECTION.   **Sec. 1.** The purpose of this act is to end double  
5       taxation of attorneys' fees obtained through judgments and settlements,  
6       whether paid by the client from the recovery or by the defendant  
7       pursuant to a statute or a contract. Through this legislation,  
8       Washington law clearly recognizes that attorneys have a property  
9       interest in their clients' cases so that the attorney's fee portion of  
10      an award or settlement may be taxed only once and against the attorney  
11      who actually receives the fee. This statute should be liberally  
12      construed to effectuate its purpose. This act is curative and  
13      remedial, and intended to ensure that Washington residents do not incur  
14      double taxation on attorneys' fees received in litigation and owed to  
15      their attorneys. Thus, except for RCW 60.40.010(4), the statute is  
16      intended to apply retroactively.

17      **Sec. 2.** RCW 60.40.010 and Code 1881 s 3286 are each amended to  
18      read as follows:

1       (1) An attorney has a lien for his or her compensation, whether  
2 specialy agreed upon or implied, as hereinafter provided:

3       ~~((+1))~~ (a) Upon the papers of ~~((his))~~ the client, which have come  
4 into ~~((his))~~ the attorney's possession in the course of his or her  
5 professional employment;

6       ~~((+2))~~ (b) Upon money in ~~((his))~~ the attorney's hands belonging to  
7 ~~((his))~~ the client;

8       ~~((+3))~~ (c) Upon money in the hands of the adverse party in an  
9 action or proceeding, in which the attorney was employed, from the time  
10 of giving notice of the lien to that party;

11       ~~((+4))~~ (d) Upon an action, including one pursued by arbitration or  
12 mediation, and its proceeds after the commencement thereof to the  
13 extent of the value of any services performed by the attorney in the  
14 action, or if the services were rendered under a special agreement, for  
15 the sum due under such agreement; and

16       (e) Upon a judgment to the extent of the value of any services  
17 performed by ~~((him))~~ the attorney in the action, or if the services  
18 were rendered under a special agreement, for the sum due under such  
19 agreement, from the time of filing notice of such lien or claim with  
20 the clerk of the court in which such judgment is entered, which notice  
21 must be filed with the papers in the action in which such judgment was  
22 rendered, and an entry made in the execution docket, showing name of  
23 claimant, amount claimed and date of filing notice.

24       (2) Attorneys have the same right and power over actions to enforce  
25 their liens under subsection (1)(d) of this section and over judgments  
26 to enforce their liens under subsection (1)(e) of this section as their  
27 clients have for the amount due thereon to them.

28       (3) The lien created by subsection (1)(d) of this section upon an  
29 action and proceeds and the lien created by subsection (1)(e) of this  
30 section upon a judgment for money is superior to all other liens.

31       (4) The lien created by subsection (1)(d) of this section is not  
32 affected by settlement between the parties to the action until the lien  
33 of the attorney for fees based thereon is satisfied in full.

34       (5) For the purposes of this section, "proceeds" means any monetary  
35 sum received in the action. Once proceeds come into the possession of  
36 a client, such as through payment by an opposing party or another  
37 person or by distribution from the attorney's trust account or registry  
38 of the court, the term "proceeds" is limited to identifiable cash

1 proceeds determined in accordance with RCW 62A.9A-315(b)(2). The  
2 attorney's lien continues in such identifiable cash proceeds, subject  
3 to the rights of a secured party under RCW 62A.9A-327 or a transferee  
4 under RCW 62A.9A-332.

5 (6) Child support liens are exempt from this section.

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