House Engrossed Senate Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 194

SENATE BILL 1247

AN ACT

AMENDING SECTIONS 33-964 AND 33-1103, ARIZONA REVISED STATUTES; RELATING TO THE HOMESTEAD EXEMPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-964, Arizona Revised Statutes, is amended to read:

33-964. Lien of judgment; duration; exemption of homestead; acknowledgment of satisfaction by judgment creditor

A. Except as provided in sections 33-729 and 33-730, from and after the time of recording as provided in section 33-961, a judgment shall become a lien for a period of five years from the date it is given, on all real property of the judgment debtor except real property exempt from execution, including homestead property, in the county ~~where~~ IN WHICH the judgment is recorded, whether the property is then owned by the judgment debtor or is later acquired. A judgment lien for support, as defined in section 25-500, ~~and associated costs and attorney fees~~ remains in effect until satisfied or lifted.

B. EXCEPT AS PROVIDED IN SECTION 33-1103, a recorded judgment shall not become a lien ~~upon~~ ON any homestead property. Any person entitled to a homestead on real property as provided by law holds the homestead property free and clear of the judgment lien.

C. A judgment of the justice court, municipal court, superior court or United States court which has become a lien under this article, ~~shall,~~ immediately on the payment or satisfaction of the judgment, SHALL be discharged of record by the judgment creditor or the judgment creditor's attorney by recording a satisfaction of judgment with the county recorder of the county in which the judgment is recorded. The judgment creditor or the judgment creditor's attorney shall enter a notation of satisfaction on the docket of the clerk of the superior court of each county ~~where~~ IN WHICH the judgment has been entered or docketed, and in a like manner enter a notation of satisfaction on the docket of the clerk of the United States district court.

Sec. 2. Section 33-1103, Arizona Revised Statutes, is amended to read:

33-1103. Effective date of homestead exemption; extent of exemption; exceptions

A. The homestead provided for in section 33-1101, subsection A is exempt from process and from sale under a judgment or lien, except:

1. A consensual lien, including a mortgage or deed of trust, or contract of conveyance.

2. A lien for labor or materials claimed pursuant to section 33-981.

3. A LIEN FOR CHILD SUPPORT ARREARAGES OR SPOUSAL MAINTENANCE ARREARAGES. AN AWARD OF COURT ORDERED SUPPORT IS NOT A LIEN FOR THE PURPOSES OF THIS PARAGRAPH UNLESS ONE OF THE FOLLOWING APPLIES:

(a) AN ARREARAGE HAS BEEN REDUCED TO JUDGMENT.

(b) A LIEN EXISTS PURSUANT TO SECTION 25-516.

(c) THE COURT ORDERS A SPECIFIC SECURITY INTEREST OF THE PROPERTY FOR SUPPORT.

1 ~~3.~~ 4. To the extent that a judgment or other lien may be satisfied
2 from the equity of the debtor exceeding the homestead exemption under section
3 33-1101.
4 B. A sale as described in subsection A of this section and not
5 excepted by subsection A, paragraph 1, 2, ~~or~~ 3 OR 4 of this section is
6 invalid and does not convey an interest in the homestead, whether made under
7 a judgment existing before or after THE homestead is established.
8 C. IN A CONTEMPT PROCEEDING BROUGHT TO ENFORCE PAYMENT OF ANY FORM OF
9 CHILD SUPPORT OR SPOUSAL MAINTENANCE, THE COURT MAY CONSIDER THE PORTION OF
10 PROPERTY CLAIMED AS EXEMPT PURSUANT TO SECTION 33-1101, SUBSECTION A, AS A
11 RESOURCE FROM WHICH AN OBLIGOR HAS THE ABILITY TO PAY.

APPROVED BY THE GOVERNOR MAY 8, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2007.