



**ARIZONA STATE SENATE**  
*Fifty-Fifth Legislature, First Regular Session*

**AMENDED**  
FACT SHEET FOR H.B. 2617

judgments; liens; homestead

Purpose

Effective January 1, 2022, requires a judgment creditor, on the sale of homestead property that is subject to a judgment lien, to be paid from the proceeds of the sale after the homestead exemption amount is paid to the debtor and after payment of any priority liens. Outlines circumstances that may lead to the extinguishment of a judgment creditor's lien on homestead property and prescribes requirements and procedures for the treatment of a judgment lien. Increases the homestead exemption from \$150,000 to \$250,000. Applies the exemption from the 10-year judgment renewal requirement to all civil judgments obtained by the state.

Background

Arizona's homestead exemption exempts up to \$150,000 of a person's equity in their dwelling from attachment, execution or forced sale. The exemption applies to a person's house and land, condominium or cooperative, mobile home or mobile home and land. A person or married couple may only claim one homestead exemption and must reside in the home for which the exemption is claimed.

The homestead exemption automatically attaches to a person's interest in identifiable cash proceeds from the voluntary or involuntary sale of the property, which continues for 18 months after the date of the sale or until the person establishes a new homestead with the proceeds ([A.R.S. § 33-1101](#)).

A judgment creditor may seek payment of debts owed by filing a judgment in the office of the county recorder in the county where the judgment creditor desires the judgment to become a lien on a judgment debtor's real property ([A.R.S. § 33-961](#)). Once recorded, the judgment becomes a lien on the judgment debtor's real property for 10 years after the judgment is filed, unless the property is exempt from execution. A civil judgment lien obtained by the state remains in effect until satisfied or lifted. A recorded judgment may not become a lien on homestead property and any person entitled to a homestead on real property holds the homestead property free and clear of any judgment lien, even when the value of the property exceeds the amount of the homestead, with certain exceptions ([A.R.S. §§ 33-964](#) and [33-1103](#)).

A party in whose favor a judgment is given may have a writ of execution or other process issued for its enforcement. The judgment must be enforced within 10 years after entry of the judgment or within 10 years after any renewal of the judgment. A judgment may be renewed by affidavit ([A.R.S. § 12-1551](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Disallows a judgment lien from attaching to homestead property for any sales, transfers or refinancing completed after January 1, 2022.
2. Specifies that sales, transfers and refinances completed beginning January 1, 2022, and valid judgements recorded before January 1, 2022, attach to the homestead property, are enforceable and create the prescribed judgment liens.
3. Increases the homestead exemption from \$150,000 to \$250,000.
4. Applies the exemption from the 10-year judgment renewal requirement to civil judgments obtained by the state that are:
  - a) entered on or after September 13, 2013; or
  - b) entered before September 13, 2013, and that were current and collectable under applicable laws on September 13, 2013.
5. Requires a judgement creditor, on the sale of homestead property that is subject to a judgment lien, to be paid from the proceeds of the sale after the homestead exemption amount is paid to the debtor and after payment of any priority liens.
6. Exempts real property subject to the homestead exemption from involuntary sale under a judgment or lien, rather than from process and sale under a judgment or lien.
7. Removes the attachment of a homestead from the exemptions applicable to a homestead.
8. Allows a title insurer, if the gross proceeds of a homestead property sale do not exceed the homestead exemption, to record a notice of partial release of the judgment lien for that homestead property without prior notice.
9. Extinguishes a judgement creditor's lien on homestead property if the gross proceeds of a homestead property sale exceed the amount of the homestead exemption but are insufficient to pay all liens on the property that have priority over the judgment creditor's lien, if:
  - a) a title insurer mails a notice to the judgment creditor that the judgment lien appears reasonably likely to be extinguished;
  - b) a judgment creditor has good cause to believe that the lien should not be extinguished and objects to the title insurer's notice within 20 days; or
  - c) a title insurer does not receive a timely objection, and prepares, signs and records a notice of partial release of the judgment lien.
10. Prohibits a title insurer that receives an objection from a judgement creditor within the 20-day period from recording the partial release of a judgment lien.
11. Entitles a prevailing party, if a court later determines that a judgement creditor's objection is invalid, to a court order extinguishing the judgment lien on the homestead property and an award of actual damages, court costs and attorney fees.
12. Asserts that the homestead exemption does not attach to a person's interest in identifiable cash proceeds from refinancing the homestead property.

13. Requires a title insurer's notice that is mailed to a judgment creditor to contain the:
  - a) judgment creditor's name;
  - b) name of the current record owner of the real property;
  - c) property street address;
  - d) recording reference for the judgment;
  - e) expected sale date on which title to the real property will transfer to the buyer;
  - f) title insurer's basis for determining that the homestead exemption applies to the property being sold;
  - g) information used in, the basis for and the date of calculating the amount of equity in the property;
  - h) name of every lienholder to be paid at the sale of the property;
  - i) amount paid to each lienholder at the sale of the property; and
  - j) title insurer's basis for determining that the prior lienholder should be paid before the judgment creditor.
14. Requires a notice of partial release of a judgment lien that is signed by the title insurer's authorized agent to specify the real property that is no longer subject to the judgment lien and to cite the specified statutory reference.
15. Allows a title insurer to charge a reasonable fee to the owner of the real property or any other person who requests a notice of partial release of the judgment lien for services rendered, including title search, document preparation, official fees and mailing costs.
16. Determines that a recorded notice of partial release of a judgment lien is conclusive evidence that the lien on the specified property is extinguished in favor of purchasers and encumbrances for value.
17. Specifies that a notice of partial release of a judgment lien does not affect a judgment lien on any other real property.
18. Specifies that compliance with statute relating to the sale of a homestead property that is subject to a judgment lien is not presumed, excused, released or altered by a recorded notice of partial release of a judgment lien.
19. Subjects a title insurer that prepares or records a notice of partial release to liability to a party for specified damages, including attorney fees and court costs, that are caused by preparing or recording the notice
20. Allows a judgment creditor to waive the requirement for a title insurer to mail a notice that a judgment lien appears likely to be extinguished if the waiver is in writing and signed by the judgment creditor's authorized agent.
21. Determines a judgment lien's priority by the date of the recording.
22. Requires a judgement creditor who seeks cash proceeds from refinancing a homestead property that is subject to a judgment lien to be paid in full from those proceeds before the judgment debtor or another person receives any proceeds.

23. Stipulates that a judgment lien is subordinated by operation of law to the new lender's interest in the homestead property in subsequent refinance transactions on a homestead property that is subject to a judgment lien.
24. Allows a notice of subordination to be recorded by any person who is a party to the refinance.
25. Requires any person who records a notice of release of a judgment lien to mail a copy of the recorded notice of release to the judgment creditor whose judgment lien is affected by that recorded document.
26. Allows parties to rely on the valuation of the property in the final closing document disclosure for the purposes of determining the amount of equity in a sold homestead property or determining whether the property owner is receiving cash back from refinancing.
27. Excludes, from the involuntary sale exemption, a recorded civil judgment or other nonconsensual lien, if the debtor's equity exceeds the homestead exemption.
28. Removes the prohibition on a recorded judgment becoming a lien on homestead property and removes the specification that any person entitled to a homestead on real property as provided by law holds the homestead property free and clear of a judgment lien.
29. Defines *title insurer*.
30. Makes technical and conforming changes.
31. Becomes effective January 1, 2022.

Amendments Adopted by Committee

1. Disallows a judgment lien from attaching to homestead property for any sales, transfers or refinancing completed after January 1, 2022.
2. Specifies that sales, transfers and refinances completed beginning January 1, 2022, and valid judgements recorded before January 1, 2022, attach to the homestead property, are enforceable and create prescribed judgment liens.
3. Requires a judgement creditor, on the sale of homestead property that is subject to a judgment lien, to be paid from the proceeds of the sale after the homestead exemption amount is paid to the debtor and after payment of any priority liens.
4. Allows a title insurer, if the gross proceeds of a homestead property sale do not exceed the homestead exemption, to record a notice of partial release of the judgment lien for that homestead property without prior notice.
5. Outlines circumstances that may lead to the extinguishment of a judgement creditor's lien on homestead property if the gross proceeds of a homestead property sale exceed the amount of the homestead exemption but are insufficient to pay all liens on the property that have priority over the judgment creditor's lien.
6. Asserts that the homestead exemption does not attach to a person's interest in identifiable cash proceeds from refinancing the homestead property.

7. Prescribes the information to be included in a title insurer's notice that is mailed to a judgment creditor.
8. Prohibits a title insurer that receives an objection from a judgement creditor within the 20-day period from recording the partial release of a judgment lien.
9. Entitles a prevailing party, if a court later determines that a judgement creditor's objection is invalid, to a court order extinguishing the judgment lien on the homestead property and an award of actual damages, court costs and attorney fees.
10. Requires a notice of partial release of a judgment lien that is signed by the title insurer's authorized agent to specify the real property that is no longer subject to the judgment lien and to cite the specified statutory reference.
11. Allows a title insurer to charge a reasonable fee to the owner of the real property or any other person who requests a notice of partial release of the judgment lien for specified services rendered.
12. Determines that a recorded notice of partial release of a judgment lien is conclusive evidence that the lien on the specified property is extinguished in favor of purchasers and encumbrances for value.
13. Specifies that a notice of partial release of a judgment lien does not affect a judgment lien on any other real property.
14. Specifies that compliance with statute relating to the sale of a homestead property that is subject to a judgment lien is not presumed, excused, released or altered by a recorded notice of partial release of a judgment lien.
15. Subjects a title insurer that prepares or records a notice of partial release to liability to a party for specified damages that are caused by preparing or recording the notice.
16. Allows a judgment creditor to waive the requirement for a title insurer to mail a notice that a judgment lien appears likely to be extinguished.
17. Determines a judgment lien's priority by the date of the recording.
18. Requires a judgement creditor who seeks cash proceeds from refinancing a homestead property that is subject to a judgment lien to be paid in full from those proceeds before the judgment debtor or another person receives any proceeds.
19. Stipulates that a judgment lien is subordinated by operation of law to the new lender's interest in the homestead property in subsequent refinance transactions on a homestead property that is subject to a judgment lien.
20. Allows a notice of subordination to be recorded by any person who is a party to the refinance.

- 21. Requires any person who records a notice of release of a judgment lien to mail a copy of the recorded notice of release to the judgment creditor whose judgment lien is affected by that recorded document.
- 22. Allows parties to rely on the valuation of the property in the final closing document disclosure for the purposes of determining the amount of equity in a sold homestead property or determining whether the property owner is receiving cash back from refinancing.
- 23. Defines *title insurer*.
- 24. Makes technical and conforming changes.
- 25. Includes a delayed effective date of January 1, 2022.

House Action

Senate Action

WM	2/10/21	DP	10-0-0-0	FIN	3/10/21	DPA	8-0-2
3 <sup>rd</sup> Read	3/1/21		52-0-8				

Prepared by Senate Research

March 11, 2021

MG/gs