

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1089

Introduced by
Senator Shope

AN ACT

AMENDING SECTIONS 11-475, 11-480 AND 13-806, ARIZONA REVISED STATUTES;
RELATING TO LIEN FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-475, Arizona Revised Statutes, is amended to
3 read:

4 11-475. Fees; exemptions

5 A. The county recorder shall receive the following fees:

6 1. For recording papers required or authorized by law to be
7 recorded, if the fee is not otherwise specified in this section, ~~thirty~~
8 ~~dollars~~ \$30 per instrument.

9 2. For recording papers to which the United States, this state or a
10 political subdivision of this state, including cities, towns and
11 irrigation, drainage and electrical districts, is a party, when recorded
12 at the request of the United States, this state or the political
13 subdivision, ~~fifteen dollars~~ \$15 per instrument.

14 3. For preparing and certifying copies of a record in the
15 recorder's office, ~~one dollar~~ \$1 for each page or partial page. In
16 addition for attaching the recorder's certificate and seal, ~~three dollars~~
17 \$3.

18 4. For issuing a certificate pursuant to section 47-9523, ~~ten~~
19 ~~dollars~~ \$10 for each name, plus ~~one dollar~~ \$1 for each financing statement
20 or statement of assignment reported therein.

21 B. The fees provided in subsection A, paragraphs 1 and 2 of this
22 section include the amount charged pursuant to section 11-475.01.

23 C. Notwithstanding subsection A, paragraph 3 of this section, the
24 recorder shall prepare and furnish copies and certifications at one-half
25 of the established fee when requested by any state agency for official
26 purposes.

27 D. The county recorder shall not receive a fee for performing the
28 duties prescribed by this section for an office, agency or department of
29 the county where the document is to be recorded. This exemption shall
30 apply only when the fees would otherwise be paid from public monies.

31 E. NOTWITHSTANDING ANY OTHER LAW, THE COUNTY RECORDER SHALL NOT
32 RECEIVE A FEE FOR PERFORMING THE DUTIES PRESCRIBED BY THIS SECTION OR ANY
33 ACT NECESSARY TO RECORD OR RELEASE A RESTITUTION LIEN FILED PURSUANT TO
34 SECTION 13-806 OR ANY LIEN NECESSARY TO ENFORCE A SUPPORT ORDER.

35 Sec. 2. Section 11-480, Arizona Revised Statutes, is amended to
36 read:

37 11-480. Requirements for form of instruments

38 A. Only an instrument ~~which upon~~ THAT, ON presentation to a county
39 recorder for recordation, fails to meet any of the following conditions
40 may be rejected for recordation at the time of presentation for
41 recordation:

42 1. Each instrument shall have a caption briefly stating the nature
43 of the instrument, such as warranty deed, release of mortgage and like
44 captions. The county recorder shall have no obligation to index any
45 instrument under any subject index category maintained by the county

1 recorder unless that category is included in the caption to the
2 instrument.

3 2. Each instrument shall be an original ~~or a copy of the original~~
4 and shall be sufficiently legible for the recorder to make certified
5 copies from the photographic or micrographic record.

6 3. Each instrument shall have original signatures except when
7 otherwise provided by law.

8 4. Each instrument dated and executed on or after January 1, 1991,
9 shall be ~~no~~ NOT larger than eight and one-half inches in width and ~~no~~ NOT
10 longer than fourteen inches and shall have a print size ~~no~~ NOT smaller
11 than ~~ten-point~~ TEN-POINT type.

12 B. Each instrument dated and executed on or after January 1, 1991,
13 shall have at least a one-half inch margin across the top, bottom and the
14 left and right sides from the top to the bottom. Any markings, entries or
15 text ~~which~~ THAT are within the one-half inch margin shall be deemed not to
16 impart the notice otherwise imparted by recordation unless such markings,
17 entries or text appear in the reproduction produced under the direction
18 and control of the county recorder. Failure to meet the one-half inch
19 margin requirement of this subsection may affect notice imparted by the
20 document but shall not constitute grounds for rejection for recordation
21 pursuant to subsection A OF THIS SECTION.

22 C. The first page shall have a top margin of at least two inches,
23 which shall be reserved for recording information. The left three and
24 one-half inches of the top margin of the first page or sheet may be used
25 by the public to show the name of the person requesting recording and the
26 name and address to which the document is to be returned following
27 recording. If the first page of the instrument does not comply with the
28 top margin requirements, a separate sheet that meets the requirements and
29 that reflects the title of the document as required by subsection A,
30 paragraph 1 OF THIS SECTION shall be attached to the front of the document
31 by the party requesting recording.

32 D. Any instrument presented to a county recorder for recordation
33 ~~which~~ THAT modifies in any way the provisions of a previously recorded
34 document must state the date of recordation and the docket and page of the
35 document being modified.

36 E. Any instrument accepted for recordation is not subject to a
37 later claim of invalidity for failure to comply with the requirements of
38 this section.

39 Sec. 3. Section 13-806, Arizona Revised Statutes, is amended to
40 read:

41 13-806. Restitution lien

42 A. The state or any person entitled to restitution pursuant to a
43 court order may file in accordance with this section a restitution
44 lien. A filing fee, A recording fee or any other charge is not required
45 for filing OR RELEASING a restitution lien.

1 B. A restitution lien shall be signed by the attorney representing
2 the state in the criminal action or by a magistrate and shall set forth
3 all of the following information:

4 1. The name and date of birth of the defendant whose property or
5 other interests are subject to the lien.

6 2. The present residence or principal place of business of the
7 person named in the lien, if known.

8 3. The criminal proceeding pursuant to which the lien is filed,
9 including the name of the court, the title of the action and the court's
10 file number.

11 4. The name and address of the attorney representing the state in
12 the proceeding pursuant to which the lien is filed or the name and address
13 of the person entitled to restitution pursuant to a court order filing the
14 lien.

15 5. A statement that the notice is being filed pursuant to this
16 section.

17 6. The amount of restitution the defendant in the proceeding has
18 been ordered to pay or an estimated amount of economic loss caused by the
19 offense alleged in the proceeding if no restitution order has been entered
20 yet.

21 7. A statement that the total amount of restitution owed will
22 change and that the clerk of the court in which the proceeding was or is
23 pending shall maintain a record of the outstanding balance.

24 C. A prosecutor or a victim in a criminal proceeding in which there
25 was an economic loss may file a request with the court for a preconviction
26 restitution lien after the filing of a misdemeanor complaint or felony
27 information or indictment.

28 D. A victim in a criminal proceeding may file a restitution lien
29 after restitution is determined and ordered by the trial court following
30 pronouncement of the judgment and sentence.

31 E. A restitution lien is perfected against interests in personal
32 property by filing the lien with the secretary of state, except that in
33 the case of titled motor vehicles it shall be filed with the department of
34 transportation motor vehicle division. A restitution lien is perfected
35 against interests in real property by filing the lien with the county
36 recorder of the county in which the real property is located. The state
37 or a victim may give the additional notice of the lien as either deems
38 appropriate.

39 F. The filing of a restitution lien in accordance with this section
40 creates a lien in favor of the state or the victim in all of the
41 following:

42 1. Any interest of the defendant in real property situated in the
43 county in which the lien is filed then maintained or thereafter acquired
44 in the name of the defendant identified in the lien.

1 2. Any interest of the defendant in personal property situated in
2 this state then maintained or thereafter acquired in the name of the
3 defendant identified in the lien.

4 3. Any property identified in the lien to the extent of the
5 defendant's interest in the property.

6 G. The filing of a restitution lien under this section is notice to
7 all persons dealing with the person or property identified in the lien of
8 the state's or victim's claim. The lien created in favor of the state or
9 the victim in accordance with this section is superior and prior to the
10 claims or interests of any other person, except a person possessing any of
11 the following:

12 1. A valid lien perfected before the filing of the restitution
13 lien.

14 2. In the case of real property, an interest acquired and recorded
15 before the filing of the restitution lien.

16 3. In the case of personal property, an interest acquired before
17 the filing of the restitution lien.

18 H. This section does not limit the right of the state or any other
19 person entitled to restitution to obtain any order or injunction,
20 receivership, writ, attachment, garnishment or other remedy authorized by
21 law.

22 I. Following the entry of the judgment and sentence in the criminal
23 case, if the trial court sentences the defendant to pay a fine or awards
24 costs of investigation or prosecution, the state may file a restitution
25 lien pursuant to this section for the amount of the fine or costs, except
26 that a lien may not be perfected against a titled motor vehicle.

27 J. A criminal restitution lien is a criminal penalty for the
28 purposes of any federal bankruptcy involving the defendant.

29 K. The court shall order the release of any preconviction
30 restitution lien that has been filed or perfected if the defendant is
31 acquitted or the state does not proceed with the prosecution.

32 L. A self-service storage facility that forecloses its lien
33 pursuant to section 33-1704 may sell personal property that is subject to
34 a restitution lien. The proceeds from the sale, less the reasonable costs
35 of sale, shall be paid to the restitution lienholder to satisfy the
36 restitution lien as prescribed in section 33-1704. A person who is a good
37 faith purchaser pursuant to section 33-1704 and who purchases personal
38 property that is subject to a restitution lien takes the property free and
39 clear of the rights of the restitution lienholder.