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Simply Recording a Justice Court Judgment Does Not Create a Lien

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In these more-difficult times of assessment collection, recording a judgment obtained against a homeowner to create a judgment lien can be a good tactic. Collection efforts on the judgment may be stalled. The debtor may be in jail, not working, hard to locate, or any number of other things. The judgment may be against a former owner that probably still lives in the county or at least the state. Recording a judgment can create a lien against any property owned by the debtor in the county in which it is recorded. It can result in payment years later because judgments can be renewed every five years by appropriate action. Moreover, because of changes in the planned community and condominium statutes in recent years, in many cases the only way to create a lien for fines is to sue an owner and obtain a judgment that can be recorded.

Therefore, we can all agree that recording judgments makes sense at some point, unless the amount is very small, or the owner is out of state or bankrupt. What many people, board members and managers alike, may not realize is that simply sending a certified copy of a Justice Court judgment – civil or small claims – to the County Recorder for recording will not create a lien.

According to A.R.S. §33-961 judgments of courts can be recorded to perfect liens against real property. Why isn't a Justice Court judgment one of those courts? Because of a specific statute. Justice court judgments require a special procedure under A.R.S. §33-962. To have a Justice Court judgment recorded, it must essentially "become" a Superior Court judgment. A certified copy/transcript of the Justice Court judgment must be obtained. It can then be filed in the Superior Court with a filing fee as a "transcript of judgment", with a "TJ" case number assigned in Superior Court. Once that case number is assigned and stamped on the judgment it becomes a judgment of the Superior Court. You can then obtain a certified copy of that Superior Court "TJ" judgment, and record it. If you do not follow this procedure, and simply record the Justice Court judgment, it will not create a lien on real property. The Recorder will no doubt record it, but it will have no effect.

Procedurally, to record a judgment, an "information statement" must also be attached under §33-967, with certain information about the name and address of the judgment debtor. A recorded judgment according to §33-964 becomes a lien for a period of five (5) years from the date it was given (not recorded) on all real property of the judgment debtor in that county except property subject to the \$150,000 Arizona homestead exemption.

Similar to the recording issue, only Superior Court judgments can be “renewed” after five years, whether recorded or not. A.R.S. §12-1611 allows judgments to be “renewed” at any time within five (5) years after the date of the judgment. However, when read together with §12-1612, it becomes clear that renewal by the normal method (affidavit) within 90 days before the expiration of five years from the entry of judgment, is only for Superior Court judgments, including those that were entered by transcript from another court under §33-962. Therefore, the second benefit of transferring a judgment of the Justice Court to Superior Court is gaining the ability to renew the judgment every five years (even if it were not recorded).

If you need assistance with transferring and/or recording judgments, please contact a collection paralegal in our office, or any of our attorneys.

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