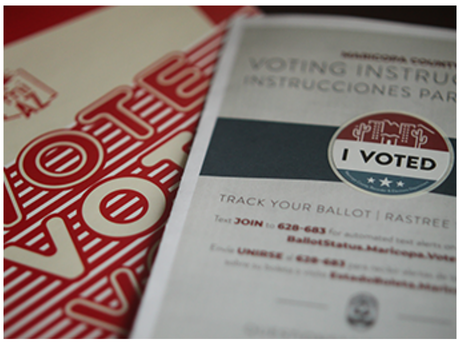
ARIZONA VOTERS MODIFY CREDITORS' REMEDIES WITH PASSAGE OF PROPOSITION 209

By Nick Bauman and Andrew Jacobsohn on 11/30/2022



On November 8th, Arizona voters approved Proposition 209, which significantly modifies the rights of creditors. Although the pre-election publicity focused mostly on medical debt, Prop. 209 changes how all types of debt can be collected against individuals. The initiative is expected to take effect in January, 2023.

Before passage of Prop. 209, interest rates for medical debt were treated the same as other debts under A.R.S. § 44-1201. The statute set the maximum rate at 10% per year, but provided that any other interest rate could be agreed to.

Expected January, 2023, the interest rate for medical debt will be capped at 3% per year, or the weekly average one-year constant maturity treasury yield—whichever is less. Importantly, the maximum allowable interest rates for other types of debt will not change.

Prop. 209 also significantly modifies Arizona's property exemptions. Property exemptions are set by statute and protect certain types of property, up to certain dollar amounts, from unsecured creditors' collection efforts. The property exemptions are also used in bankruptcy cases to protect certain assets (in certain amounts) from being used to pay creditors. Prop. 209 makes the following changes to Arizona's property exemptions:

Property

Current Exemption

Exemption Beginning Jan. 1, 2023

Homestead exemption

$250,000

$400,000

Household goods, furnishings, and electronic devices

$6,000

$15,000

Equity in motor vehicle

$6,000

$15,000

Equity in motor vehicle if debtor or debtor’s dependent has a physical disability

$12,000

$25,000

Money held in a personal bank account

$300

$5,000

These exemption amounts will be adjusted annually to account for cost-of-living increases. On January 1 of each year beginning in 2024, each exemption amount will be recalculated by measuring the percentage increase of the consumer price index from the previous year.

Finally, Prop. 209 limits the amount of a person’s wages that can be subject to debt collection by any creditor. Under current law, up to 25% of a person’s disposable wages is subject to garnishment by creditors (or 30 times the federal minimum wage, whichever is less). In the case of an order for the support of a person (e.g., child support), half of the debtor’s disposable earnings may be garnished. After Prop. 209 takes effect, only 10% of disposable wages will be subject to garnishment (or 60 times the highest applicable minimum wage, whichever is less). Prop. 209 does not affect garnishments pursuant to orders for the support of a person.

Prop. 209 makes changes to Arizona law that affect all creditors, not only holders of medical debt. It is important for creditors to understand these changes when executing a judgment or deciding whether to bring a lawsuit against an individual.

For more information about Prop. 209 or creditors’ rights, please contact Nick Bauman at nbauman@lewisroca.com or Andrew Jacobsohn at ajacobsohn@lewisroca.com.

Tags: Arizona Government Relations, Bankruptcy and Creditors’ Rights