

## NEW ARIZONA LAW EXPANDS RIGHTS OF JUDGMENT CREDITORS

By Nicholas Bauman and Allison Whitehill on 01/5/2022



A new law in Arizona, HB 2617, makes significant changes to Arizona's homestead exemption and expands the rights of judgment creditors. The law went into effect on January 1, 2022, but creditors with judgments entered before then also may take advantage of the changes to the law.

Before HB 2617, recorded judgments did not create liens on homestead property (typically, the judgment debtor's personal residence), and up to \$150,000 of equity in the homestead property was exempt from collection by creditors. The absence of a lien could cause a variety of issues for a creditor seeking satisfaction of a judgment against the debtor's homestead property. For instance, the judgment debtor could frustrate collection efforts through a "cash out" refinance that stripped the equity from homestead property. Because there was no lien on the homestead property, the judgment creditor had no right to the "cash out" proceeds.

Effective January 1, 2022, the amount of the homestead exemption is increased to \$250,000, but recorded judgments now create liens on homestead property and provide other opportunities for judgment creditors. For one, judgment debtors may not receive any cash proceeds from a refinance until the judgment is paid. Likewise, under some circumstances, judgment creditors must be paid before title can pass to the buyer of homestead property. In addition, the new law expressly authorizes a judgment creditor to force an involuntary sheriff's execution sale of homestead property if the equity in the property exceeds \$250,000. Further, if the judgment debtor files for bankruptcy, the judgment creditor will be treated as a secured creditor and the lien may survive bankruptcy under certain circumstances.

These changes, and others, create new collection opportunities for judgment creditors. HB 2617's expansion of judgment-creditor rights makes it even more important to timely record and renew judgments in every Arizona county where the judgment debtor owns property and to understand the remedies available to judgment creditors.