CHAPTER 9
SENATE BILL 1089
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)
Be it enacted by the Legislature of the State of Arizona:

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

11-475. Fees; exemptions
A. The county recorder shall receive the following fees:
1. For recording papers required or authorized by law to be recorded, if the fee is not otherwise specified in this section, thirty dollars $30 per instrument.
2. For recording papers to which the United States, this state or a political subdivision of this state, including cities, towns and irrigation, drainage and electrical districts, is a party, when recorded at the request of the United States, this state or the political subdivision, fifteen dollars $15 per instrument.
3. For preparing and certifying copies of a record in the recorder's office, one-dollar $1 for each page or partial page. In addition for attaching the recorder's certificate and seal, three-dollars $3.
4. For issuing a certificate pursuant to section 47-9523, ten dollars $10 for each name, plus one-dollar $1 for each financing statement or statement of assignment reported therein.
B. The fees provided in subsection A, paragraphs 1 and 2 of this section include the amount charged pursuant to section 11-475.01.
C. Notwithstanding subsection A, paragraph 3 of this section, the recorder shall prepare and furnish copies and certifications at one-half of the established fee when requested by any state agency for official purposes.
D. The county recorder shall not receive a fee for performing the duties prescribed by this section for an office, agency or department of the county where the document is to be recorded. This exemption shall apply only when the fees would otherwise be paid from public monies.
E. NOTWITHSTANDING ANY OTHER LAW, THE COUNTY RECORDER SHALL NOT RECEIVE A FEE FOR PERFORMING THE DUTIES PRESCRIBED BY THIS SECTION OR ANY ACT NECESSARY TO RECORD OR RELEASE A RESTITUTION LIEN FILED PURSUANT TO SECTION 13-806 OR ANY LIEN NECESSARY TO ENFORCE A SUPPORT ORDER.

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

11-480. Requirements for form of instruments
A. Only an instrument which upon THAT, ON presentation to a county recorder for recordation, fails to meet any of the following conditions may be rejected for recordation at the time of presentation for recordation:
1. Each instrument shall have a caption briefly stating the nature of the instrument, such as warranty deed, release of mortgage and like captions. The county recorder shall have no obligation to index any instrument under any subject index category maintained by the county.
recorder unless that category is included in the caption to the
instrument.

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

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

4. Each instrument dated and executed on or after January 1, 1991,
shall be not larger than eight and one-half inches in width and not
longer than fourteen inches and shall have a print size not smaller
than ten-point type.

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

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

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

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

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

13-806. Restitution lien

A. The state or any person entitled to restitution pursuant to a
court order may file in accordance with this section a restitution
lien. A filing fee, a recording fee or any other charge is not required
for filing or releasing a restitution lien.
B. A restitution lien shall be signed by the attorney representing the state in the criminal action or by a magistrate and shall set forth all of the following information:

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

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

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

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

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

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

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

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

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

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

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

1. Any interest of the defendant in real property situated in the county in which the lien is filed then maintained or thereafter acquired in the name of the defendant identified in the lien.
2. Any interest of the defendant in personal property situated in this state then maintained or thereafter acquired in the name of the defendant identified in the lien.

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

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

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

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

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

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

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

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

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

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