Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 45

SENATE BILL 1216

AN ACT

AMENDING SECTIONS 12-120.09, 12-202, 12-283, 12-1555, 12-1612 AND 12-1613, ARIZONA REVISED STATUTES; RELATING TO THE CLERK OF THE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 12-120.09, Arizona Revised Statutes, is amended to read:

12-120.09. Duties of clerk; records; certified copies

A. The clerk of each division shall:

1. Issue writs and processes of the court.

2. Enter, under the direction of the court, all orders, judgments and decrees required to be entered, the title of each action, the date of filing it in the court of appeals, and a memorandum of all subsequent proceedings, with the date and the fees charged.

3. Keep such other ~~books of record~~ RECORDS and perform such other duties as required by law or the court.

B. The clerk shall furnish a certified copy of any record or proceeding of the court ~~upon~~ ON receiving the fee for the copy, except that no fee shall be required from state or other public officers whose duties require such certified copy.

C. The clerk of each division of the court of appeals may destroy or provide for the destruction of all documents, records, instruments, books, papers, depositions, exhibits and transcripts in any action or proceeding in the court of appeals, or otherwise filed or deposited in the clerk's custody pursuant to rules established by the supreme court.

D. A photographic or electronic reproduction or image of any of the records described in this section, which has been certified by the person in charge of such reproduction as being an exact replica of the original, shall be received in evidence in all courts, and in hearings before any officer, board or commission having jurisdiction or authority to conduct such hearings, in like manner as the original.

E. The clerk shall notify the director of the Arizona state library, archives and public records of records designated for destruction pursuant to court rules. The state library, during the time prescribed by court rule, may review and inspect these records. During this time period, the state library may remove any of these records for storage and retrieval.

Sec. 2. Section 12-202, Arizona Revised Statutes, is amended to read:

12-202. Duties; record of proceedings; certified copies

A. The clerk shall:

1. Attend sessions of the court.

2. Issue writs and processes of the court.

3. Enter, under the direction of the court, all orders, judgments and decrees required to be entered, the title of each action, the date of filing it in the supreme court, and a memorandum of all subsequent proceedings, with the date and the fees charged.

4. Keep such other ~~books of record~~ RECORDS and perform such other duties as required by law or the court.

B. The record of the proceedings of the court shall be read, corrected and signed by the chief justice.

C. The clerk shall furnish a certified copy of any record or proceeding of the court ~~upon~~ ON receiving the fee therefor, except no fee shall be required from state or other public officers whose duties require such certified copy.

Sec. 3. Section 12-283, Arizona Revised Statutes, is amended to read:

12-283. Powers and duties

A. The clerk, in addition to the other duties prescribed by law or rule of court, shall:

1. Attend each session of the court held in the county.

2. Keep a list of fees charged in actions.

3. Keep ~~books of record~~ RECORDS required by law or rule of court.

B. The clerk may provide a consumer reporting agency as defined in section 44-1691 with a copy of:

1. A court order obligating a person to pay child support or spousal maintenance.

2. An order for assignment under section 25-323 or 25-504.

C. A clerk who provides the information in subsection B of this section to a consumer reporting agency shall also provide the information to the child support enforcement administration in the department of economic security.

D. The clerk, in accordance with procedures established by the board of supervisors, may appoint deputies, clerks and assistants necessary to conduct the affairs of the office of the clerk. The appointments shall be in writing. The clerk shall be the appointing authority and shall administer and supervise all employees of the clerk's office.

E. The clerk shall submit an annual budget request, which shall be coordinated with the presiding judge, to the county board of supervisors. The clerk shall be responsible for the funds appropriated by the board to the clerk.

F. The clerk shall maintain and provide access to court records in accordance with applicable law or rule of court. The clerk shall keep a docket in the form and style as prescribed by the supreme court.

G. The clerk is responsible for the operations of the clerk's office.

H. The clerk may provide programs to assist in the enforcement of child support, spousal maintenance and parenting time and in the establishment and modification of child support.

I. ~~Beginning December 31, 2007, a~~ THE clerk ~~in a county with a population of two million persons or more~~ shall compile and publish electronically all superior court criminal case minute entries, except as otherwise prohibited by law. At a minimum, the information shall be arranged or searchable by the case name, the case number and the name of the judge or commissioner.

~~J. Beginning January 1, 2010, the clerk in a county with a population of less than two million persons shall compile and publish electronically all superior court criminal case minute entries, except as otherwise prohibited by law. At a minimum, the information shall be arranged or searchable by the case name, the case number and the name of the judge or commissioner.~~

Sec. 4. Section 12-1555, Arizona Revised Statutes, is amended to read:

12-1555. Return of execution

A. An execution shall be made returnable to the clerk of the court issuing it at any time not less than ten nor more than ninety days after its receipt by the officer to whom directed.

B. When the execution is returned the clerk shall note in the proper docket ~~or book~~ the amount made by the officer, and to whom paid, and attach the execution to the record of the proceedings.

Sec. 5. Section 12-1612, Arizona Revised Statutes, is amended to read:

12-1612. Renewal by affidavit

A. A judgment for the payment of money ~~which~~ THAT has been entered and docketed in the civil docket or civil order book of the United States district court or superior court, whether originally rendered by it or entered upon a transcript of judgment from another court, or recorded with the county recorder, may be renewed by filing an affidavit for renewal with the clerk of the proper court.

B. The judgment creditor~~,~~ OR his personal representative or assignee may within ninety days preceding the expiration of five years from the date of entry of such judgment, make and file an affidavit, known as a renewal affidavit, entitled as in the action setting forth:

1. The names of the parties, the name of the court in which docketed, if recorded the name of the county in which recorded, the date and amount of the judgment, ~~the number and page of the docket in which entered by the clerk of the court,~~ if recorded, the number and page of the book in which recorded by the county recorder, the name of the owner of the judgment, and his source and succession of title, if not the judgment creditor.

2. That no execution is anywhere outstanding and unreturned upon the judgment, or if any execution is outstanding, that fact shall be stated.

3. The date and amount of all payments upon the judgment and that all payments have been duly credited upon the judgment.

4. That there are no set-offs or counterclaims in favor of the judgment debtor, and if a counterclaim or set-off does exist in favor of the judgment debtor, the amount thereof, if certain, or, if the counterclaim or set-off is unsettled or undetermined, a statement that when it is settled or determined by action or otherwise, it may be allowed as a payment or credit upon the judgment.

5. The exact amount due upon the judgment after allowing all set-offs and counterclaims known to affiant, and other facts or circumstances necessary to a complete disclosure as to the exact condition of the judgment.

C. If the judgment was docketed by the clerk of the court upon a certified copy from any other court and subsequently an abstract recorded with the county recorder, the affidavit ~~shall~~, in addition to the foregoing, SHALL set forth a statement of each county in which such transcript has been docketed and abstract recorded. The affidavit shall be verified positively by the person making it, and not upon information and belief.

D. The filing of the affidavit in the office of the clerk of the court where the judgment is entered and docketed shall renew and revive the judgment to the extent of the balance shown due in the affidavit.

E. Additional and successive renewal affidavits as provided for in subsection B may be made and filed within ninety days of expiration of five years from the date of the filing of a prior renewal affidavit.

F. Recorded judgments ~~which~~ THAT have been timely renewed by a renewal affidavit and successive affidavits, even if such successive affidavits were not authorized by prior law, may be renewed as provided in this section if the prior renewal affidavits were filed within ninety days from the expiration of each successive five year period.

Sec. 6. Section 12-1613, Arizona Revised Statutes, is amended to read:

12-1613. Docketing and recording affidavit of renewal; effect

A. THE CLERK SHALL DOCKET the affidavit of renewal ~~shall be docketed by the clerk~~ in the proper docket ~~or book,~~ and ~~he~~ shall enter in the proper docket ~~or book~~ forthwith, after the statement of the original judgment, the date and fact of the renewal, and the amount for which the judgment is renewed.

B. The entry and docketing of the affidavit by the clerk shall renew the judgment for a period of five years from the time of docketing.

C. No lien ~~upon~~ ON or against the real property of the judgment debtor shall be continued by an affidavit of renewal until a copy of the affidavit, certified by the clerk of the court, is recorded in the office of the county recorder.

D. From and after recordation of the copy of the affidavit of renewal, certified by the clerk of the court, the judgment shall be a lien to the extent of the balance shown in the affidavit of renewal against all real property of the judgment debtor, except such as is exempt from execution, including interest in the homestead, for a period of five years from the date of docketing the affidavit of renewal with the clerk.

E. A copy of the renewal affidavit and of the docket entries thereon, certified by the clerk of the court wherein they are filed, may be docketed in any other county of the state in which a transcript of the original judgment was filed, and a copy of the renewal affidavit may be recorded with the county recorder of any county wherein the original judgment has been previously filed or docketed or wherein the judgment creditor desires the judgment to become a lien ~~upon~~ ON real property of the judgment debtor.

APPROVED BY THE GOVERNOR APRIL 4, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 4, 2013.

Passed the House March 20, 2013,

by the following vote: 36 Ayes,

22 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 14, 2013,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

President of the Senate

Chauncia Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

3 day of April, 2013,

at 12:05 o'clock P M.

Mikhaila Howard

Secretary to the Governor

Approved this 4th day of

April, 2013,

at 2:30 o'clock P. M.

Jan K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4th day of April, 2013,

at 5:00 o'clock P M.

Ken Bennett

Secretary of State

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