

Section 1. 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 or any other charge is not required for filing 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 restitution lien may be filed by:

1. A prosecutor in a criminal proceeding in which there was an economic loss after the filing of a misdemeanor complaint or felony information or indictment. At the time of arraignment the prosecutor shall give the defendant notice of any restitution lien filed.

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

D. 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.

E. 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.

F. 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.

G. 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.

H. 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.

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

J. 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.

K. NOTWITHSTANDING SECTION 28-2132, AFTER A HEARING, THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MAY REMOVE A RESTITUTION LIEN FILED PURSUANT TO THIS CHAPTER ON OR BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION FROM A VEHICLE RECORD IF THE DIRECTOR FINDS BOTH OF THE FOLLOWING:

1. A PERSON PURCHASED THE VEHICLE WITHOUT ANY KNOWLEDGE THAT THE VEHICLE WAS SUBJECT TO A RESTITUTION LIEN ~~FILED PURSUANT TO THIS CHAPTER.~~

2. THE PERSON WHO SOLD THE VEHICLE IS AN OBLIGOR UNDER A RESTITUTION LIEN ~~FILED PURSUANT TO THIS CHAPTER~~ AND SOLD THE VEHICLE WITHOUT DISCLOSING TO THE PURCHASER THAT THE VEHICLE WAS SUBJECT TO A RESTITUTION LIEN ~~FILED PURSUANT TO THIS CHAPTER.~~

L. IF A RESTITUTION LIEN IS REMOVED AS PRESCRIBED IN SUBSECTION K OF THIS SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL PLACE A CODE ON THE OBLIGOR'S RECORD THAT AUTOMATICALLY RESTORES THE RESTITUTION LIEN ON ANY VEHICLE THAT IS SUBSEQUENTLY TITLED OR REGISTERED, OR BOTH, BY THE OBLIGOR.

M. FOR THE PURPOSES OF THIS SECTION, "RESTITUTION LIEN" MEANS A RESTITUION LIEN FILED PURSUANT TO SECTION 13-805 OR THIS SECTION.

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