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Sen. Townsend
Reps. Hensley, Michael Smith, Spiegelman, K. Williams;
Sens. Paradee, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 339

AN ACT TO AMEND TITLES 10 AND 11 OF THE DELAWARE CODE RELATING TO THE REAL PROPERTY LIEN OF CRIMINAL-RELATED JUDGMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4101, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4101. Payment of fines, costs and restitution upon conviction

4 (b) Immediately upon imposition by a court, including a justice of the peace, of any sentence to pay a fine, costs,
5 restitution or all 3, the same shall be a judgment against the convicted person for the full amount of the fine, costs,
6 restitution or all 3, assessed by the sentence. Such judgment shall be immediately executable, enforceable and/or
7 transferable by the State or by the victim to whom such restitution is ordered in the same manner as other judgments of the
8 court. If not paid promptly upon its imposition or in accordance with the terms of the order of the court, or immediately if
9 so requested by the State, the clerk or Prothonotary shall cause the judgment to be entered upon the civil judgment docket
10 of the court; provided, however, that where a stay of execution is otherwise permitted by law such a stay shall not be
11 granted as a matter of right but only within the discretion of the court. If the court imposing any sentence to pay a fine,
12 costs, restitution or all 3 has no civil docket for the entry of a judgment, then such court may immediately transfer such
13 judgment to the civil judgment docket of an appropriate court, as shall be determined by the court imposing such sentence.
14 Judgments docketed pursuant to this subsection shall be exempt from the provisions of § 4711 of Title 10 which mandate
15 the expiration of judgments, and which require the renewal of such ~~judgments.~~ judgments; however, no such judgment will
16 attach to a parcel of real property for more than 7 years after the convicted person has sold, transferred, or lost ownership
17 interest in that specific parcel of real property.

18 Section 2. Amend § 4711, Title 10 of the Delaware Code by making deletions as shown by strike through and
19 insertions as shown by underline as follows:

20 § 4711. Time limitation of judgment lien; extension of time.

21 (a) No judgment for the recovery of money entered or recorded in the Superior Court, whether rendered by that
22 Court or transferred thereto from the Supreme Court, or from the dockets of a justice of the peace or the Court of Common
23 Pleas, or operative by virtue of any writ of testatum fieri facias, or otherwise, howsoever recorded in the Court, shall
24 continue a lien upon real estate for a longer term than 10 years next following the day of entry or recording of such
25 judgment, or, in case the whole or any part of the money for which the judgment is recovered or rendered shall not be due
26 and payable at or before the time of its entry or recording, the day on which such money shall have become wholly due and
27 payable, unless, within the term of 10 years, the lien of such judgment is renewed and continued by a written agreement,
28 signed by the plaintiff, or if there is more than 1, 1 or more of the plaintiffs therein, or the assignee or assignees thereof, or
29 the person or persons to whose use such judgment shall have been marked, such person's or persons' executors or
30 administrators, and by the defendant or defendants therein, such defendant's or defendants' executors or administrators,
31 and, in order to bind lands conveyed by the defendant or defendants by deeds of record subsequent to such judgment, the
32 terre tenant or terre tenants of the real estate bound by such lien, or, in case of a judgment upon a mechanic's lien, the terre
33 tenant or terre tenants of such real estate, or by the attorneys of record of the respective parties to such judgment, or of the
34 persons interested therein, in substantially the following form, after stating the title of the cause: "It is agreed that the lien of
35 this judgment shall be extended for the term of 10 years," filed in the office of the prothonotary and by the prothonotary
36 minuted and certified upon the record of the judgment, or of the testatum fieri facias, as the case may be, or by scire facias,
37 in manner set forth in this section. If a writ of scire facias is sued out of the Court before the expiration of the term of 10
38 years, and the term expires during the pendency of the proceedings upon the scire facias, the lien of the judgment shall
39 continue until final determination by the Court of the rights of the respective parties thereto, or until the discontinuance or
40 dismissal of such scire facias. If final judgment in such scire facias is rendered against the plaintiff or plaintiffs therein, and
41 an appeal or a writ of error is taken, and the Supreme Court renders final judgment thereon in favor of the plaintiff, plaintiff
42 in error, or appellant, the lien of such original judgment shall be restored and continued. Such restoration or continuance of
43 the lien by such final judgment of the Supreme Court shall not in any manner affect or be operative as against any bona fide
44 purchaser, mortgagee or judgment creditor, who becomes such after the entry of such final judgment by the Superior Court
45 upon such scire facias and before the noting upon the record of such final judgment in such scire facias of the taking of the
46 appeal or writ of error.

47 (b) No judgment which is a general lien, including judgments for costs and judgments in favor of the State or any
48 political subdivision thereof, shall remain a lien for more than the 10-year period hereinabove provided, unless renewed for

49 (c) This section shall not apply to those judgments entered of record pursuant to court-ordered restitution awards
50 as provided in § 4101(b) of ~~Title 11~~; Title 11; however, no such judgment will attach to a parcel of real property for more

51 than 7 years after the convicted person has sold, transferred, or lost their ownership interest in that specific parcel of real
52 property.

53 (d) Unless extended by the procedure set forth in § 4715 of this title or the express conditions of a criminal
54 sentencing order, the automatic lien on real property that is derived from a criminal judgment filed with the Prothonotary
55 expires 7 years from the date of the criminal conviction. If a lien on real property is removed, a criminal judgment's
56 personal liability against a defendant remains valid and enforceable. This subsection applies to all of the following:

57 (1) Liens on real property derived from a criminal judgment filed with the Prothonotary after [the effective
58 date of this Act].

59 (2) Liens on real property derived from a criminal judgment filed with the Prothonotary before [the effective
60 date of this Act] if the judgment is extended under § 4715 of this title within 1 year after [the effective date of this Act].

SYNOPSIS

This Act provides protection to homeowners from sellers that may have misled buyers (or their settlement attorneys) regarding a criminal judgment that attached to real property. It prevents innocent owners from potentially becoming a second victim by having a prior owner's lien attach for more than 7 years after the settlement.