



CARPENTER HAZLEWOOD

Carpenter, Hazlewood, Delgado & Bolen

ATTORNEYS AT LAW

Don't Buy the Line on Prop 209 – Five Reasons to Vote “No”

Proposition 209 the “Predatory Debt Collection Protection Act” (Arizona Petition I-05-2022) is a statewide ballot initiative that if passed will virtually eliminate an HOA’s ability to garnish an HOA member’s wages or bank account (one of the primary methods by which unpaid assessments are recovered). Prop 209 if passed, is likely to result in:

- **A spike in delinquency rates** with the disincentive of wage and bank garnishment being removed from almost half the population.
- **More HOA members losing their homes to HOA assessment lien foreclosure**, as HOA’s turn to foreclosure as an alternative primary means of collection of unpaid assessments.
- **Higher collection related expenses**, as HOA assessment lien foreclosure typically involves more costs and steps than the garnishment process.
- **Longer recovery times** – as HOA assessment lien foreclosure typically takes longer to accomplish than garnishment; and
- **HOA members paying higher assessments**, as HOA’s find the need to increase assessments to account for the increased collection related expense as well as risk that the HOA may not recover all of its delinquent assessments.

A copy of Prop 209 is attached. See also:

https://azsos.gov/sites/default/files/prop_209_ballot_format_language.pdf

For all of the above reasons, we encourage voters to vote “no” on Prop 209.

The following table summarizes Prop 209’s potential impact on wage garnishment, bank garnishment and the homestead exemption.

Current Law	If Prop 209 passes	Analysis
Wage Garnishments		
25% of disposable earnings can be garnished.	10% of disposable earnings will be garnished No one currently earning \$51k or less can be garnished. ¹	<ul style="list-style-type: none"> • Wage garnishments will need to be released in December of 2022, regardless as to whether the garnishment has been completed. • An HOAs' ability to garnish wages to satisfy a judgment will be significantly reduced as 41% of Arizonans make \$50k or less.²
Bank Garnishments		
Each person is entitled to protect \$300 per bank account from bank garnishment. If two people hold the bank account, \$600 is protected.	Each person would be entitled to protect \$5k per bank account from a bank garnishment. If two people hold the bank account, \$10k is protected.	<ul style="list-style-type: none"> • Essentially eliminates an HOA's ability to garnish bank accounts unless the debtor happens to have a significant amount of funds in their bank account.
Homestead Exemption		
\$250k of equity is shielded from general creditors.	\$400k of equity is shielded from general creditors.	<ul style="list-style-type: none"> • While this does not apply to the HOA judicial foreclosure process, when an owner sells their home, judgments would not be paid from escrow unless there is more than \$450k in equity in the property.
Personal Property Exemptions		
\$6k of personal items/household goods are shielded from debt collection	\$15k of personal items/household goods are shielded from debt collection	<ul style="list-style-type: none"> • While less impactful to HOA's, an HOA's ability to satisfy a judgment via general writ of execution would be drastically limited.

Please feel free to call any attorney at Carpenter, Hazlewood, Delgado & Bolen if you have any questions.

¹ The amount by which disposable earnings exceed sixty times (it is currently thirty times) the minimum wage.

² <https://www.phoenix.gov/econdevsite/Documents/Population%20Demographics%20Insert.pdf>

PROPOSITION 209 - SAMPLE BALLOT/BALLOT FORMAT

PROPOSITION 209

**PROPOSED BY INITIATIVE PETITION RELATING TO PREDATORY DEBT
COLLECTION PROTECTION**

OFFICIAL TITLE

AMENDING SECTIONS 12-1598.10, 33-1101, 33-1123, 33-1125, 33-1126, 33-1131, AND 44-1201, ARIZONA REVISED STATUTES; RELATING TO PREDATORY DEBT COLLECTION PROTECTION.

DESCRIPTIVE TITLE

THE LAW WOULD REDUCE MAXIMUM INTEREST RATES ON MEDICAL DEBT FROM 10% TO 3% ANNUALLY; INCREASE THE AMOUNT OF CERTAIN ASSETS EXEMPT FROM DEBT COLLECTION; ANNUALLY ADJUST EXEMPTIONS FOR INFLATION BEGINNING 2024; AND ALLOW COURTS TO REDUCE THE AMOUNT OF DISPOSABLE EARNINGS GARNISHED IN CASES OF EXTREME ECONOMIC HARDSHIP.

A “YES” vote shall have the effect of reducing maximum interest rates on medical debt from ten percent to no more than three percent per year; increasing exemptions from all debt collection for certain personal assets, including a debtor’s home, household items, motor vehicle, and bank account from debt collection; adjusting exemptions from all debt collection for inflation beginning in 2024; decreasing the amount of disposable earnings subject to garnishment to no more than ten percent of disposable earnings but allowing a court to decrease the disposable earnings subject to garnishment to five percent based on extreme economic hardship.	YES <input type="checkbox"/>
A “NO” vote shall have the effect of retaining existing laws related to debt collection.	NO <input type="checkbox"/>