

SENATE BILL No. 53

AN ACT relating to civil procedure; concerning certain dormant judgments; amending K.S.A. 60-2403 and repealing the existing section.

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

Section 1. K.S.A. 60-2403 is hereby amended to read as follows: 60-2403. (a) (1) Except as provided in subsection (d), if a renewal affidavit is not filed or if execution, including any garnishment proceeding, support enforcement proceeding or proceeding in aid of execution, is not issued, within five years from the date of the entry of any judgment in any court of record in this state, including judgments in favor of the state or any municipality in the state, or within five years from the date of any order reviving the judgment or, if five years have intervened between the date of the last renewal affidavit filed or execution proceedings undertaken on the judgment and the time of filing another renewal affidavit or undertaking execution proceedings on it, the judgment, including court costs and fees therein shall become dormant, and shall cease to operate as a lien on the real estate of the judgment debtor. Except as provided in subsection (b), when a judgment becomes and remains dormant for a period of two years, it shall be the duty of the ~~clerk of the court~~ *judge* to release the judgment of record when requested to do so.

(2) A “renewal affidavit” is a statement under oath, signed by the judgment creditor or the judgment creditor’s attorney, filed in the proceedings in which the judgment was entered and stating the remaining balance due and unpaid on the judgment.

(3) A “support enforcement proceeding” means any civil proceeding to enforce any judgment for payment of child support or maintenance and includes, but is not limited to, any income withholding proceeding under the income withholding act, K.S.A. 23-4,105 through 23-4,118 and amendments thereto, or the interstate income withholding act, K.S.A. 23-4,125 through 23-4,137 and amendments thereto, any contempt proceeding and any civil proceeding under the revised uniform reciprocal enforcement of support act (1968), K.S.A. 23-457 *et seq.* and amendments thereto.

(b) (1) If a judgment for the support of a child becomes dormant before the child’s emancipation, it shall be the duty of the ~~clerk of the court~~ *judge* to release the judgment of record when requested to do so only if the judgment has remained dormant for the period prior to the child’s emancipation plus two years. When, after the child’s emancipation, a judgment for the support of a child becomes and remains dormant for a period of two years, it shall be the duty of the ~~clerk of the court~~ *judge* to release the judgment of record when requested to do so.

(2) The provisions of this subsection shall apply only to those judgments which have not become void as of July 1, 1988.

(c) The time within which action must be taken to prevent a judgment from becoming dormant does not run during any period in which the enforcement of the judgment by legal process is stayed or prohibited.

(d) If a renewal affidavit is not filed or if execution is not issued, within 10 years from the date of the entry of any judgment of restitution in any court of record in this state, the judgment, including court costs and fees therein shall become dormant, and shall cease to operate as a lien on the real estate of the judgment debtor. Except as provided in subsection (b), when a judgment becomes and remains dormant for a period of two years, it shall be the duty of the ~~clerk of the court~~ *judge* to release the judgment of record when requested to do so.

Sec. 2. K.S.A. 60-2403 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.