

Rule 4003-2: Lien Avoidance

(a) Form. A motion to avoid a lien which impairs an exemption under Bankruptcy Code § 522(f) shall be in the form as required by Local Rule 9004-1. A request for lien avoidance under Bankruptcy Code § 522(f) shall not be included in a plan. The motion must describe the property subject to the lien. In the case of real property and in counties where recorded information is available on the Internet, the motion must include the county recorder number of the document evidencing the lien.

~~(b)~~(b) Debtor's Residence. Debtor or Debtor's counsel may request an order avoiding a judicial lien on Debtor's principal residence

(c) Notice of motion. Contemporaneously with the filing of the motion, the movant shall file a form of notice, stating that any response objection to the motion and request for a hearing must be filed within 14 days of service of the motion and notice.

~~(c)~~(d) Service. The movant shall serve the motion and notice on all affected lienholders and parties, and file a certificate of service.

~~(d)~~(e) Entry of order. If an objection to the motion is not timely filed and served upon the movant, a proposed form of order granting the motion may be lodged with a certificate of service and of no objection. The certificate and proposed form of order may not be filed until three days after the last day for objection.

~~(e)~~(f) Procedure upon objection. If a timely objection is filed and served, the movant shall obtain a hearing date on the motion and objection and serve a notice of the hearing on the objecting party, and file a certificate of service.

Committee Notes 2016: Judicial liens on debtor's principal residence: the court is encouraged to enter an a order avoiding a judicial lien on debtor's principal residence in order to address the misapplication of ARS 33-964 by other courts, creditors and/or title companies.

Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.