

Assembly Bill No. 2317

CHAPTER 183

An act to amend Section 701.680 of the Code of Civil Procedure, relating to enforcement of judgments.

[Approved by Governor July 23, 2014. Filed with Secretary of State July 23, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2317, Maienschein. Execution: sale of property.

Existing law provides that a sale of property pursuant to specified statutory provisions regarding enforcement of judgments is absolute and may not be set aside for any reason. The judgment debtor may recover from the judgment creditor the proceeds of a sale pursuant to the judgment with interest if the judgment is reversed, vacated, or otherwise set aside. If the sale was improper because of irregularities in the proceedings, because the property sold was not subject to execution, or for any other reason, the judgment debtor, or the judgment debtor's successor in interest, may commence an action within 90 days after the date of sale to set aside the sale if the purchaser at the sale is the judgment creditor.

This bill would declare that these provisions do not affect, limit, or eliminate a judgment debtor's equitable right of redemption.

The people of the State of California do enact as follows:

SECTION 1. Section 701.680 of the Code of Civil Procedure is amended to read:

701.680. (a) Except as provided in paragraph (1) of subdivision (c), a sale of property pursuant to this article is absolute and shall not be set aside for any reason.

(b) If the judgment is reversed, vacated, or otherwise set aside, the judgment debtor may recover from the judgment creditor the proceeds of a sale pursuant to the judgment with interest at the rate on money judgments to the extent the proceeds were applied to the satisfaction of the judgment.

(c) If the sale was improper because of irregularities in the proceedings, because the property sold was not subject to execution, or for any other reason:

(1) The judgment debtor, or the judgment debtor's successor in interest, may commence an action within 90 days after the date of sale to set aside the sale if the purchaser at the sale is the judgment creditor. Subject to paragraph (2), if the sale is set aside, the judgment of the judgment creditor is revived to reflect the amount that was satisfied from the proceeds of the

sale and the judgment creditor is entitled to interest on the amount of the judgment as so revived as if the sale had not been made. Any liens extinguished by the sale of the property are revived and reattach to the property with the same priority and effect as if the sale had not been made.

(2) The judgment debtor, or the judgment debtor's successor in interest, may recover damages caused by the impropriety. If damages are recovered against the judgment creditor, they shall be offset against the judgment to the extent the judgment is not satisfied. If damages are recovered against the levying officer, they shall be applied to the judgment to the extent the judgment is not satisfied.

(d) For the purposes of subdivision (c), the purchaser of the property at the sale is not a successor in interest.

(e) This section does not affect, limit, or eliminate a judgment debtor's equitable right of redemption.