**State Statutes Allowing a Bankruptcy Discharge as a Lien Release**

**Alabama**:

None

**Alaska:**

None

**Arizona:**

None

**California:**

None

**Colorado:**

None

**Connecticut:**

None

**Delaware:**

None

**Florida:**

<https://www.flsenate.gov/Laws/Statutes/2011/55.145>

**Georgia:**

None

**Hawaii:**

None:

**Idaho:**

None

**Illinois:**

None

**Indiana:**

None:

**Iowa:**

None

**Kansas:**

None

**Kentucky:**

None

**Louisiana:**

<http://law.justia.com/codes/louisiana/2014/code-revisedstatutes/title-9/rs-9-5175>

**Maine:**

None:

**Maryland:**

None

**Massachusetts:**

None

**Michigan:**

Texas model under Subsection 6(d):

<https://www.legislature.mi.gov/(S(busblghf3shqzyw00sks5zah))/mileg.aspx?page=getObject&objectName=mcl-600-2809>

**Minnesota:**

Here is a link to the Minnesota statute:

[https://www.revisor.mn.gov/statutes/?id=548.181](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.revisor.mn.gov_statutes_-3Fid-3D548.181&d=CwMFAg&c=o5NSBS5PZxIE1KEhsQXCDm4oU_YwLIAP1khBO-T_6DA&r=Luxkk684vHuqiGX9DkA_zanPcCWKdz-9fJiSJpgReno&m=zidfKXEzkwWtyohfjuchI1FIQzdjf0m5Zh3fxA0s1y4&s=AY18KdG-ZVs_0OdgerczvWVUKG2rX2XzBAGF2y20SVQ&e=)

**Mississippi:**

None

**Missouri:**

None

**Nebraska:**

None

**Nevada:**

None

**New Hampshire:**

None

**New Jersey:**

<http://njlaw.rutgers.edu/cgi-bin/njstats/showsect.cgi?title=2A&chapter=16&section=49.1&actn=getsect>

Petition may be filed 1 year after discharge, creditor is served and if no objection, the lien is ordered released.

**New Mexico:**

None

**New York:**

<http://codes.findlaw.com/ny/debtor-and-creditor-law/dcd-sect-150.html>

**North Carolina:**

None

**North Dakota:**

<http://www.legis.nd.gov/cencode/t28c20.pdf>

28-20-30.1. Effect of bankruptcy on judgment lien.

1. If a judgment lien appears on a judgment debtor's real property and the debtor is later the subject of bankruptcy proceedings in which the judgment lien is avoided or set aside, the judgment lien may be terminated of record by filing a certified copy of the bankruptcy court lien avoidance judgment.
2. A prebankruptcy petition judgment does not create a lien on real property that is acquired by the judgment debtor after the filing of the bankruptcy petition which may be established by filing a copy of the discharge.
3. A copy of the discharge may be filed to remove a judgment lien as a cloud on the homestead set aside to the bankruptcy debtor.
4. Subsection 2 does not apply if the judgment creditor files a certified copy of an order or a judgment of the bankruptcy court which declares the debt is nondischargeable. A judgment creditor may record lis pendens stating the judgment creditor has filed a nondischargability action in bankruptcy court. This section does not apply to debts

automatically excepted from discharge under section 523 of the United States Bankruptcy Code [11U.S.C. 523].

1. As used in this section, "files" or "filing" means a filing with the clerk of district court in the county in which the judgment is docketed or transcribed.

**Ohio:**

None

**Oklahoma:**

None.

**Oregon:**

<http://law.justia.com/codes/oregon/2015/volume-01/chapter-018/section-18.238>

This situation is addressed by Oregon Revised Statutes § 18.238. That rule gives the Court the authority to eliminate the judgment lien if certain conditions are met.   You have to show the Court that the debt was discharged in bankruptcy and either 1) at the time you filed for bankruptcy protection, you did not own any real estate for the judgment lien to attach to, or 2) if you did own real estate, the value of that real estate was less than the other liens against the property (such as mortgages), so there was no value of the judgment lien to attach to.

The process is usually straight-forward. The debtor’s attorney prepares and files a motion explaining why the conditions of ORS 18.238 are met and an affidavit or sworn declaration signed by the debtor.  The documents are filed in the Court where the judgment was entered.  A copy of the documents is served on the judgment creditor, usually by mail.   The creditor has 17 days from mailing to file an objection.  If the creditor files an objection, the Court will hold a hearing.  However, typically, the creditor does not file an objection and, after the 17 day period has expired, the debtor’s attorney submits a proposed order for the judge to review and sign.  The entire process usually takes less than a month and can be accomplished with modest attorney fees.

**Pennsylvania:**

None

**Rhode Island:**

None

**South Carolina:**

**SECTION 15-35-630.** Discharge of bankrupts from judgments.  
  
Any time after one year has elapsed since a bankrupt was discharged from his debts, pursuant to the acts of Congress relating to bankruptcy, the bankrupt, his receiver, trustee or any other interested person may apply, upon proof of the bankrupt's discharge, to the court in which a judgment was rendered against him or, if rendered in a court not of record, to the court of which it has become a judgment by docketing it therein for an order directing the judgment to be cancelled and discharged of record. If it appears upon the hearing that the bankrupt has been discharged from the payment of that judgment or the debt upon which such judgment was recovered, an order must be made directing the judgment to be cancelled and discharged of record. And thereupon the clerk of the court shall cancel and discharge the judgment by marking on the docket thereof that it is cancelled and discharged by order of the court, giving the date of entry of the order of discharge.  
  
The provisions of this section shall not operate to discharge any debt, judgment or claim that is not dischargeable under the Federal Bankruptcy Act or the law of this State.  
  
HISTORY: 1962 Code Section 10-1553; 1952 Code Section 10-1553; 1942 Code Section 664-1; 1933 (38) 505.  
  
**SECTION 15-35-640.** Discharge of bankrupts from judgments; notice of application.  
  
Notice of the application, accompanied with copies of the papers upon which it is made, must be served upon the judgment creditor or his attorney of record in the judgment, in the same manner as provided in the rules of the circuit courts of this State for the service of process, if the residence or place of business of such creditor or his attorney is known. But if such residence or place of business is unknown and cannot be ascertained after due diligence or if such creditor is a nonresident of this State and if his attorney is dead, removed from or cannot be found within the State, upon proof of such facts by affidavit, a judge of the court may make an order that the notice of such application be published in a newspaper designated therein once a week for not more than three weeks. Such publication, shown by the affidavit of the publisher, shall be sufficient service upon such judgment creditor of the application.  
  
HISTORY: 1962 Code Section 10-1554; 1952 Code Section 10-1554; 1942 Code Section 664-1; 1933 (38) 505.

**SECTION 15-35-650.** Entry of cancellation on margin or index of judgment.  
  
All clerks of court shall enter the word "cancelled," together with the signature of such officer, upon the margin or across the indices of judgments when any such judgment is duly cancelled of record by the judgment creditor or his assignee. Such cancellation and signature shall be entered in the margin opposite the names of the judgment debtor and judgment creditor, respectively, or across such names, and the like cancellation shall on the demand of the judgment debtor, or his legal representative, be made on judgments theretofore cancelled of record. Upon failure of such clerk of court to comply with the provisions of this section, he shall, in each instance, forfeit and pay to the judgment debtor the sum of ten dollars, to be recovered in any court of competent jurisdiction, and if such failure be wilful he shall, on conviction, be fined not more than one hundred dollars or be imprisoned not more than thirty days, in the discretion of the court. The solicitor of each circuit shall see that the provisions of this section are complied with or shall forthwith prosecute violators thereof.  
  
HISTORY: 1962 Code Section 10-1555; 1952 Code Section 10-1555; 1942 Code Section 8709; 1932 Code Section 8709; Civ. C. '22 Section 5230; Cr. C. '22 Section 536; Civ. C. '12 Section 3466; 1910 (26) 587; 1911 (27) 164; 1912 (27) 628.

**South Dakota:**

<http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Statute=15-16&Type=Statute>

15-16-37.   Application for discharge of civil judgment debt discharged in bankruptcy.

Any person who has secured a discharge of a civil judgment debt pursuant to United States Code, Title 11, and any person interested in real property to which the judgment attaches may submit an application for a discharge of the judgment to the clerk of court in which the judgment was entered or transcribed.

**Source:** SL 2012, ch 110, § 1.

15-16-38.   Contents of application--Service on judgment creditors.

An application under § 15-16-37 shall be sworn under oath and identify each judgment to be discharged, shall state that each judgment sought to be discharged was listed on the debtor's bankruptcy schedules, that no judgment sought to be discharged is nondischargeable under 11 USC § 523 or no order was entered by the bankruptcy court declaring any of the judgments nondischargeable, shall be accompanied by a certified copy of the judgment debtor's bankruptcy discharge, shall state the time the judgment creditor has to object as specified in § 15-16-39 and the grounds for objection as specified in § 15-16-40 and shall be served at the expense of the applicant on each judgment creditor either:

             (1)      In the manner provided for the service of a summons in a civil action accompanied by an affidavit of service; or

             (2)      By certified mail to the judgment creditor's last known address as it appears in the court record accompanied by an affidavit of mailing.  
  
**Source:** SL 2012, ch 110, § 2; SL 2013, ch 97, § 1.

15-16-39.   Clerk to discharge judgment--Exception--Objection to discharge--Service.

The clerk, without further notice or hearing, shall discharge each judgment except a judgment in favor of a judgment creditor who has filed an objection to discharge of the judgment within ten days after service of the application on the judgment creditor. Service shall be deemed effective from the date deposited in the U.S. mail or from the date of actual service. An objection to discharge of a judgment shall be served on the judgment debtor in the same manner as an answer in a civil action.

**Source:** SL 2012, ch 110, § 3.

15-16-40.   Motion and order for discharge except to extent that debt not discharged in bankruptcy.

If a judgment creditor objects to the discharge of a judgment, on motion of the judgment debtor, the judgment creditor, or other interested party, the court shall order the judgment discharged except to the extent that the debt represented by the judgment was not discharged by the bankruptcy discharge.

**Source:** SL 2012, ch 110, § 4.

15-16-42.   Judgment ceases to be lien upon discharge.

Upon the discharge of a judgment by the clerk pursuant to § 15-16-39, a judgment shall cease to be a lien on any real property that the person discharged in bankruptcy owns or later acquires.

**Source:** SL 2012, ch 110, § 6.

15-16-43.   Applicability to general judgment liens only.

Nothing contained in §§ 15-16-38 to 15-16-42, however, may be construed to apply to any judgment which constituted a valid lien upon any specific property of such judgment debtor, as distinguished from the general judgment lien on real property.

**Source:** SL 2012, ch 110, § 7.

**Tennessee:**

None

**Texas:**

(No due process, the lien is just discharged):

<http://codes.findlaw.com/tx/property-code/prop-sect-52-042.html>

**Utah:**

None

**Vermont:**

None

**Virginia:**

None

**Washington:**

None

**West Virginia**

None

**Wisconsin:**

Here is the Wisconsin statute, but you’ll have to scroll down to Section 806.19 (4).  Please note that Wisconsin provides a statutory form for both the petition and the release:

[https://docs.legis.wisconsin.gov/statutes/statutes/806/13](https://urldefense.proofpoint.com/v2/url?u=https-3A__docs.legis.wisconsin.gov_statutes_statutes_806_13&d=CwMFAg&c=o5NSBS5PZxIE1KEhsQXCDm4oU_YwLIAP1khBO-T_6DA&r=Luxkk684vHuqiGX9DkA_zanPcCWKdz-9fJiSJpgReno&m=zidfKXEzkwWtyohfjuchI1FIQzdjf0m5Zh3fxA0s1y4&s=12PcPQT5WFl9x7IEYku0yLLiOh59ZN3nzR1NKhT6IPA&e=)

Also, here’s a WI Supreme Court Case on this statute and a summary of adjunct professor of law in WI:

Megal Development Corp. v. Shadof, 2005 WI 151 (2005)

Homeowners filed Chapter 7 petition for bankruptcy and listed in debtors' schedule of unsecured creditors a creditor that obtained a judgment in the amount of $52,714.  During the bankruptcy proceeding, the judgment creditor filed an objection to debtors' claim for exempt homestead property, but the bankruptcy court set aside the objection as premature, because debtors had not sought to avoid any portion of the judgment lien.  After discharge, debtor filed application with state court pursuant to a Wisconsin statute, Sec. 806.19(4), Wis. Stats., seeking an order satisfying the judgment.  Creditor objected on the ground that the net equity in the property exceeded the maximum homestead exemption of $40,000

The state court held that the debtors were not entitled to an order satisfying the judgment, where the property's value exceeded the applicable exemption.  Wisconsin Court of Appeals certified the matter to the Wisconsin Supreme Court.

The Supreme Court reversed, upholding the complete release of the judgment lien claim.

The court determined that the Wisconsin statute provided a post-discharge mechanism through operation of state law for a debtor to obtain, where the judgment creditor's claim was discharged in bankruptcy, satisfaction of a judgment and a judgment lien that had, by operative statute, attached to debtor's real estate.  The language of the statute, regardless of any state or bankruptcy exemption limits, mandates that the clerk shall satisfy each judgment described in the applicable, upon which the judgment shall cease to be a lien on any real estate owns or later acquires.

The Wisconsin Supreme Court then examined the state statute in the context of federal bankruptcy law.  It held that the Wisconsin statute is not preempted by the Supremacy Clause of the United States Constitution, because a state statute that permits a state court to satisfy post-discharge a judgment and extinguish a judgment lien reflects policy decisions of the legislature to provide additional protections to Wisconsin residents at the conclusion of bankruptcy, and does not interfere with the Bankruptcy Code.  The state statute does not create an exemption, nor does it limit the powers of the bankruptcy trustee during bankruptcy.  The statute simply does not operate during bankruptcy at all, but is dormant until the conclusion of the federal bankruptcy proceeding, and thus does not conflict with the Code.  For states that do not, like Wisconsin, have such a statute, 11 U.S.C. Sec. 522(f) provides a similar mechanism to avoid liens through the federal bankruptcy code.

Finally, the Wisconsin statute does not deprive judgment creditors of a property right without due process of law.  The judgment lien, which is nothing more than a mechanism for the enforcement of an in personam money judgment, does not constitute or create an estate interest or right of property

**Wyoming:**

None