

#D-300

1/29/80

Memorandum 80-21

Subject: Study D-300 - Creditors' Remedies (Time for Enforcement of Judgments)

At the November 1979 meeting, the Commission reviewed the provisions of the tentative recommendation on enforcement of judgments that related to the time for enforcement. The Commission determined that a judgment should be enforceable for 10 years from entry and that a registration type of procedure should be provided for renewing the judgment for additional 10-year periods. The registration procedure was to be based on the procedure for registration of sister state money judgments.

Attached is a revised draft of this portion of the enforcement of judgments statute. The revised draft reflects the previous decisions of the Commission relating to time for enforcement of judgments.

Respectfully submitted,

Stan G. Ulrich
Staff Counsel

TIME FOR ENFORCEMENT OF JUDGMENTS

Under existing law, a writ or order for the enforcement of a judgment may be obtained as a matter of right within 10 years after the entry of the judgment.¹ The time during which the enforcement of the judgment is stayed or enjoined is excluded from the computation of the 10 years within which the writ or order may issue.² The judgment may be enforced after 10 years in the discretion of the court upon motion by the judgment creditor with notice to the judgment debtor.³ The judgment may also be renewed by bringing an action upon it within 10 years after entry.⁴ This scheme is a direct descendant of the common law rules concerning actionability and executability of a money judgment.⁵

1. Section 681. Section 681, and its companion provision (Section 685 pertaining to issuance after 10 years), govern issuance of writs or orders for the enforcement of money judgments and judgments for the possession or sale of property. See, e.g., *Butcher v. Brouwer*, 21 Cal.2d 354, 132 P.2d 205 (1942) (money judgment); *Laubisch v. Roberdo*, 43 Cal.2d 702, 708-09, 713-15, 277 P.2d 9, 13, 16-17 (1954) (judgment for sale of real property); *City of Los Angeles v. Forrester*, 12 Cal. App.2d 146, 148-49, 55 P.2d 277, 278 (1936) (judgment for possession of real property). See also 5 B. Witkin, California Procedure Enforcement of Judgment § 68, at 3443, § 199, at 3553 (2d ed. 1971); Review of 1955 Code Legislation 101 (Cal. Cont. Ed. Bar 1955). But see Civil Code § 4380 (court has discretion as to manner of enforcement of judgment, order, or decree under Family Law Act).
2. Section 681.
3. Section 685. This provision requires the judgment creditor to file an affidavit stating the reasons for failure to enforce the judgment within the 10 years allowed by Section 681. See the cases cited in 5 B. Witkin, California Procedure Enforcement of Judgment § 202, at 3555 (2d ed. 1971). See also discussion in note 16 infra.
4. Section 337.5 (statute of limitations); *Atkinson v. Adkins*, 92 Cal. App. 424, 426, 268 P. 461, 462 (1928).
5. At common law, a writ of the appropriate type--*leviari facias*, *fieri facias*, or *elegit*--could be issued to enforce a money judgment only for a year and a day after the signing of the judgment. If a writ was not issued within this time, the judgment became dormant and the judgment creditor was required to initiate proceedings to revive the judgment by means of a writ of *scire facias* or to bring an action of debt to renew the judgment. *Scire facias* could be obtained without application to the court for a period of 10 years after judgment. At a later time, the common law developed a rebuttable presumption of payment after 20 years. See Riesenfeld, Collection of Money Judgments in American Law--A Historical Inventory and a Prospectus, 42 Iowa L. Rev. 155, 156-59, 172-73 (1957).

The proposed law establishes a 10-year period of enforcement for money judgments and judgments for possession or sale of property,⁶ but permits the 10-year period to be extended by renewal of the judgment. If the judgment is not renewed,⁷ it becomes unenforceable at the conclusion of 10 years from its entry and all enforcement proceedings against the judgment debtor must cease.⁸ If a judgment is not renewed within the 10-year period of enforceability, there will be no need to retain certain of the court records thereafter.⁹

-
6. A stay of enforcement would not extend the 10-year period.
 7. The proposed procedure for renewal of judgments would not preclude resort to the traditional method of renewing a judgment by bringing an action on the judgment. The proposed law also makes clear that an action may be brought on a judgment renewed through the statutory procedure.
 8. The rule announced in *Alonso Inv. Corp. v. Doff*, 17 Cal.3d 539, 551 P.2d 1243, 131 Cal. Rptr. 411, (1976), permitting the enforcement of a writ of execution after the expiration of the 10-year period provided by Section 681 if the writ had been timely issued, is not continued in the proposed law. An otherwise unenforceable judgment could be used as a setoff, however, if it was enforceable at the same time that the judgment debtor had a claim against the judgment creditor. In addition, the judgment creditor would be able to continue a creditor's suit against a third person holding property of or owing debts to the judgment debtor and enforce any judgment obtained in that suit after the time for enforcement of the original judgment against the judgment debtor had expired. See the discussion under "Creditors' Suits" infra.
 9. There is no fixed time limit for a motion under Section 685 so all the court records must be preserved indefinitely. Cases cited in *Long v. Long*, 76 Cal. App.2d 716, 722, 173 P.2d 840, 843 (1946), reveal that execution has been permitted under Section 685 for as much as 20 years after judgment. In *Hatch v. Calkins*, 21 Cal.2d 364, 371, 132 P.2d 210, 214 (1942), the court denied issuance of a writ of execution 29 years after entry of judgment for lack of diligence.

In the case of money judgments payable in installments,¹⁰ the proposed law codifies case law holding that the time for enforcement of each installment runs from the time the installment falls due.¹¹ If an installment judgment is not renewed, payments due more than 10 years are unenforceable, but payments not more than 10 years overdue and future installments are enforceable even though the judgment was entered more than 10 years previously.

The proposed law provides a simple renewal procedure for extending the period of enforceability of a money judgment or judgment for the possession or sale of property. The judgment creditor may file an application with the court where the judgment was entered. The clerk then enters the renewal in the amount stated in the judgment creditor's application¹² and the enforceability of the judgment is extended for 10 years from the date of filing. The judgment creditor is required to

-
10. See Code Civ. Proc. §§ 85 (installment payment of money judgments of municipal or justice court), 667.7 (periodic payment of future damages in action against provider of health care services); Labor Code §§ 5801, 5806 (installment payment of worker's compensation award; entry of judgment); Veh. Code § 16380 (installment payment of vehicle accident damage judgment). Installment judgments for spousal or child support (Civil Code §§ 4700, 4801) are not governed by the proposed provisions outlined in the text. Instead, judgments under the Family Law Act would be enforceable after the expiration of 10 years from entry or accrual of an installment in the discretion of the court. This is consistent with Civil Code Section 4380 giving the court discretion in the manner of enforcing judgments, orders, and decrees under the Family Law Act.
 11. See, e.g., Wolfe v. Wolfe, 30 Cal.2d 1, 4, 180 P.2d 345, ___ (1947); Lohman v. Lohman, 29 Cal.2d 144, 150, 173 P.2d 657, ___ (1946); DeUprey v. DeUprey, 23 Cal. 352, 353 (1863).
 12. The amount due on the judgment includes the amount of unsatisfied principle, allowed costs, and accrued interest. This procedure is analogous to the procedure for entry of a judgment on the basis of a sister state judgment upon filing an application with the clerk. See Section 1710.25.

serve notice of the filing of the application on the judgment debtor who has 30 days after service within which to make a motion to vacate the renewal. The judgment can be vacated on any grounds that would be a defense to an action on the judgment.¹³ In addition, the court has authority to modify the amount of the renewal if it is shown at the hearing on the motion that the amount due has been incorrectly stated in the judgment creditor's application. An application for renewal must be filed before the expiration of the 10-year period of enforceability.¹⁴ In the case of an installment judgment, only installments due not more than 10 years will be renewed by the application.¹⁵ There is no limit placed on the number of times the judgment creditor may renew the judgment by means of this procedure, and there is no requirement that the judgment creditor demonstrate diligence in enforcing the judgment during the previous 10 years.¹⁶

13. This procedure is analogous to Sections 1710.30 and 1710.40 (sister state judgments).

14. An application for renewal may be filed under the proposed law even if enforcement of the judgment is stayed since renewal has no effect on the stay but does prevent the expiration of the 10-year period of enforceability.

15. In the case of an installment judgment, the past due installments are aggregated into a lump sum with a period of enforceability running 10 years from the filing of the application for renewal. Future installments may continue to fall due under the terms of the judgment and are not affected by the renewal.

16. The necessity of satisfying the reasonable diligence requirement of existing law is a waste of judicial resources for no significant benefit. Prior to the amendment of Section 685 in 1933, the creditor could obtain issuance of a writ of execution "almost as a matter of right" after the expiration of the period prescribed by Section 681 (five years at the time). *Butcher v. Brouwer*, 21 Cal.2d 354, 357, 132 P.2d 205, ___ (1942). However, in *Butcher* the court held that execution could issue only if the judgment creditor has

exercised due diligence in locating and levying upon property owned by the debtor, or in following available information to the point where a reasonable person would conclude that there was no property subject to levy within that time. And even though the creditor may have satisfied the court that he has proceeded with due diligence . . . , the court may still deny him its process if the debtor shows circumstances occurring

Under the proposed law, a certified copy of the judgment creditor's application for renewal may be recorded with the county recorder in order to renew a judgment lien on an interest in real property for 10 years running from the date the application for renewal was filed with the court clerk.¹⁷ Other liens and enforcement proceedings may also be continued after the expiration of a prior 10-year enforcement period if a certified copy of the application for renewal has been served on or filed or recorded with the proper person.

subsequent to the five-year period upon which, in the exercise of a sound discretion, it should conclude that he is not now entitled to collect his judgment.

Id. at 358, 132 P.2d at _____. For the application of this standard in a variety of factual settings, see the cases cited in 5 B. Witkin, California Procedure Enforcement of Judgment § 202, at 3555 (2d ed. 1971).

17. This provision achieves the same result as under existing law in a case where a judgment in an action on a money judgment is recorded to create a judgment lien on the judgment debtor's property that is still subject to the judgment lien of the original judgment. See *Provisor v. Nelson*, 234 Cal. App.2d Supp. 876, 44 Cal. Rptr. 894 (1965). The proposed law also permits the renewal of a judgment lien on an interest in real property that has been transferred subject to the lien.

CHAPTER 3. PERIOD FOR ENFORCEMENT AND RENEWAL
OF JUDGMENTS

Article 1. Period for Enforcement of Judgments

§ 683.010. Judgment enforceable upon entry

683.010. Except as otherwise provided by statute or in the judgment, a judgment is enforceable under this title upon entry.

Comment. Section 683.010 continues the substance of a portion of former Section 681. Nothing in Section 683.010 limits the authority of the court to stay enforcement of a judgment under any other applicable statutory provisions, such as Sections 916-923.

CROSS-REFERENCES

Defined terms

Judgment § _____

968/673

§ 683.020. Ten-year period for enforcement of judgment

683.020. Except as otherwise provided by statute, upon the expiration of 10 years after the date of entry of a money judgment or a judgment for possession or sale of property:

- (a) The judgment may not be enforced.
- (b) All enforcement procedures pursuant to the judgment or to a writ or order issued pursuant to the judgment shall cease.
- (c) Any lien created by an enforcement procedure pursuant to the judgment is extinguished.

Comment. Section 683.020 supersedes the first sentence of former Section 681 (which provided a 10-year enforcement period). Unless the judgment is renewed by action (see Section 683.050) or pursuant to Article 2 (commencing with Section 683.110), a judgment is enforceable only for 10 years; at the end of this period, enforcement of the judgment is barred and any liens created by the enforcement process are extinguished. No further action, including levy, sale, collection, or delivery pursuant to the judgment, or pursuant to a writ or order issued to enforce the judgment, may take place. The rule announced in *Alonso Inv. Corp. v. Doff*, 17 Cal.3d 539, 541-43, 551 P.2d 1243, ___, 131 Cal. Rptr. 411, ___ (1976), permitting the enforcement of a writ of execution after the expiration of the 10-year period if the writ had been timely issued, is not continued, subject to an exception where the judgment is renewed. See Section 683.200 (continuation of enforcement procedures upon renewal).

Section 683.020 applies only to money judgments and judgments for the possession or sale of property. Accordingly, other judgments--such as those governed by Chapter 5 (commencing with Section 717.010) of Division 3--are not subject to the 10-year rule of Section 683.020. Section 683.030 provides a special rule applicable to money judgments payable in installments. See also Sections 683.060 (judgments under Family Law Act excluded from this article), 683.070 (money judgment against public entity excluded from this article).

The statement in *Nutt v. Nutt*, 247 Cal. App.2d 166, 168, 55 Cal. Rptr. 380, ___ (1966), that the absence from the state of the judgment debtor and the debtor's property tolls the running of the time to seek a writ of execution under former Section 681, is no longer applicable. However, a judgment may be used as an offset after the expiration of the 10-year period if the claim of the judgment debtor (against which the judgment is offset) existed during the 10-year period during which the judgment was enforceable. See Section 431.70 and Comment thereto.

CROSS-REFERENCES

Defined terms

Judgment § _____
 Money judgment § _____

968/675

§ 683.030. Time for enforcement of installment judgment

683.030. If a money judgment is payable in installments, the 10-year period of enforceability prescribed by Section 683.020 runs as to each installment from the date the installment becomes due.

Comment. Section 683.030 codifies case law concerning the time within which installment judgments may be enforced. Cf. *Wolfe v. Wolfe*, 30 Cal.2d 1, 4, 180 P.2d 345, ___ (1947) (installment judgment for support). For provisions authorizing installment judgments, see Code Civ. Proc. §§ 85 (municipal or justice court may order installment payment of money judgment), 667.7 (periodic payment of future damages in action against provider of health care services); Labor Code §§ 5801, 5806 (installment payment of worker's compensation award); Veh. Code § 16380 (installment payment of vehicle accident damage judgment). Some installment judgments are not governed by this article. See Sections 683.060 (spousal or child support), 683.070 (money judgment against public entity).

CROSS-REFERENCES

Defined terms

Money judgment § _____

§ 683.040. Application for writ more than 10 years after entry of judgment

683.040. Where the judgment creditor applies for a writ for the enforcement of a money judgment or a judgment for possession or sale of property and the application is made more than 10 years after the date of the entry of the judgment, the application shall be accompanied by an affidavit of a person having knowledge of the facts stating facts showing that the issuance of the writ sought in the application is not barred under this chapter. A copy of the affidavit shall be attached to the writ when issued.

Comment. Section 683.040 establishes a new requirement designed to provide information to the court clerk and levying officer when a writ is sought more than 10 years after the judgment was entered. An affidavit will satisfy the requirements of this section if it states that the 10-year limitation period (Section 683.020) has been extended by renewing the judgment pursuant to Article 2 (commencing with Section 683.110). Where the judgment is a money judgment payable in installments, the affidavit will be sufficient if it states that the 10-year limitation period (Section 683.030) has not run as to the installment or installments covered by the application for the writ. Section 683.040 does not apply to a judgment for child or spousal support; Section [703.120] requires that the creditor obtain a court order for the issuance of the writ where a judgment for support is sought to be enforced by a writ of execution. See Section 683.060.

§ 683.050. Right of action on judgment preserved

683.050. Nothing in this chapter limits any right the judgment creditor may have to bring an action on a judgment, but any such action shall be commenced within the period prescribed by Section 337.5.

Comment. Section 683.050 makes clear that the 10-year period of enforcement prescribed by Section 683.020 and the renewal procedure provided by Article 2 (commencing with Section 683.110) do not affect the right to bring an action on a judgment. The limitation period for commencing the action is prescribed by Section 337.5. See also Section 683.220 (action on renewed judgment).

§ 683.060. Judgments under Family Law Act

683.060. This chapter does not apply to judgments made or entered pursuant to the Family Law Act, Part 5 (commencing with Section 4000) of Division 4 of the Civil Code.

Comment. Section 683.060 excludes judgments under the Family Law Act from the coverage of this chapter. See Civil Code § 4380.5.

405/454

§ 683.070. Judgments against public entities

683.070. This chapter does not apply to a money judgment against a public entity that is subject to Section 965.5 or 970.1 of the Government Code.

Comment. Section 683.070 is included to reflect the fact that the period of enforceability of a money judgment against the state or a local public entity is governed by provisions of the Government Code. The period of enforceability of a money judgment against a public entity may not be extended using the renewal procedure under Sections 683.110-683.220. This does not, however, affect the right to bring an action on the judgment.

Note. Sections 965.5 and 970.1 would be added to the Government Code by a bill introduced in 1980.

7846

Article 2. Renewal of Judgments

§ 683.110. Renewal of judgment authorized

683.110. The period of enforceability of a money judgment or a judgment for possession or sale of property may be extended by renewal of the judgment as provided in this article.

Comment. Sections 683.110-683.220 provide a new procedure for renewing judgments. The new procedure is drawn from the procedure for enforcing sister state money judgments (Sections 1710.10-1710.65). Renewal under this article permits enforcement of a judgment beyond the basic 10-year period prescribed by Section 683.020. This procedure supersedes the procedure under former Section 685 pursuant to which a judgment could be enforced upon noticed motion after the expiration of 10 years in the discretion of the court upon a showing of the reasons for failure to enforce the judgment during the first 10 years. This article does not require the judgment creditor to demonstrate diligence in enforcing the judgment, but if renewal is not accomplished within 10 years after entry of the judgment, the judgment becomes unenforceable. See Section 683.020. See also Section 683.050 (right of action on judgment preserved).

§ 683.120. Judgment renewed upon filing of application; effect of renewal

683.120. (a) The judgment creditor may renew the judgment by filing an application for renewal of the judgment with the court in which the judgment was entered.

(b) Except as otherwise provided in this article, the filing of an application for renewal of the judgment extends the period of enforceability of the judgment until 10 years from the date of filing.

(c) In the case of a money judgment payable in installments, the enforceability of the judgment for the amounts described in the application for renewal is extended until 10 years from the date of filing. The renewed installments (with allowed costs) comprising the principal amount due shall be treated as a lump-sum money judgment entered on the date of the filing of the application for renewal for the purposes of enforcement and of any later renewal.

Comment. Under Section 683.120 the enforceability of the judgment is extended until 10 years from the date the application for renewal is filed. Renewal under this article does not result in entry of a new judgment as would be the case where an action is brought on a California or sister state judgment or where a California judgment is entered on the basis of a sister state judgment. See Sections 683.050 (right of action on judgment preserved), 1710.25, 1710.35 (entry of California judgment on basis of sister state judgment).

Subdivision (c) makes clear that the application for renewal reduces past due amounts of principal (including allowed costs) to a lump sum enforceable for an additional 10 years. Future installments continue to accrue under the judgment as originally entered according to its terms. The renewal also extends the right to enforce the payment of accrued interest for 10 years from the date the application for renewal is filed; but, in order to avoid compounding of interest, this interest is not added to the principal. See Section 683.150(b).

§ 683.130. Time for filing application

683.130. (a) In the case of a lump-sum money judgment or a judgment for possession or sale of property, the application for renewal of the judgment may be filed at any time prior to the expiration of the 10-year period of enforceability provided by Section 683.020 or, if the judgment is a renewed judgment, at any time prior to the expiration of

the 10-year period of enforceability of the renewed judgment provided by Section 683.120.

(b) In the case of a money judgment payable in installments, the application for renewal of the judgment may be filed at any time as to past due installments that, at the time of filing, are not barred by the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

Comment. Subdivision (a) of Section 683.120 prescribes the general rule that renewal may be accomplished at any time when the judgment is still enforceable. See also Section 683.210 (renewal permitted during stay of enforcement). Renewal may take place during the basic 10-year period of enforcement (see Section 683.020) or during any subsequent renewal period (see Section 683.120). There is no limit on the number of renewals.

Subdivision (b) states a special application of the general rule to installment judgments. Renewal as to any installment must take place within 10 years after the installment becomes due. See Section 683.030 (time for enforcement of installment judgment). This provision governs, for example, installment judgments under Code of Civil Procedure Sections 85 (municipal or justice court may order installment payment of money judgment) and 667.7 (periodic payment of future damages in action against provider of health care services), Labor Code Sections 5801, 5806 (installment payment of worker's compensation award), and Vehicle Code Section 16380 (installment payment of vehicle accident damage judgment). When a judgment is renewed as to past due installments, the renewed judgment is a lump-sum judgment (see subdivision (c) of Section 683.120) which thereafter is governed by subdivision (a) of Section 683.130. See Section 683.150(a)(1).

32809

§ 683.140. Contents of application

683.140. The application for renewal of the judgment shall be executed under oath and shall include all of the following:

- (a) The title of the court where the judgment is entered and the cause and number of the action.
- (b) The date of entry of the judgment and of any subsequent renewals, and where entered in the records of the court.
- (c) The name and last known address of each of the following:
 - (1) The judgment debtor.
 - (2) The judgment creditor.
 - (3) The original judgment creditor, if different from the judgment creditor filing the application.

(d) The total amount or terms of the judgment as entered if the judgment has not previously been renewed or, if the judgment has been renewed, the total amount or terms of the judgment under the most recent renewal.

(e) The amount of costs allowed subsequent to the entry or the prior renewal of the judgment.

(f) The amount of accrued interest to the date of the application.

(g) The amount of any partial satisfactions.

(h) The net balance of the principal (including allowed costs) remaining due on the judgment, the amount of accrued interest remaining due on the judgment, and any other performance remaining due.

Comment. Section 683.140 sets forth the contents of the application for renewal of a judgment. It is drawn in part from Section 1710.15 (application for entry of judgment based on sister state judgment). The amount of principal and costs and the amount of interest are required to be separately stated to avoid compounding of interest. See Section 683.150(b). See also Section [685.010] (interest accrues on amount of money judgment remaining unsatisfied), [685.080] (addition of costs to judgment).

406/223

§ 683.150. Entry of renewal by court clerk

683.150. (a) Upon the filing of the application, the court clerk shall enter the renewal of the judgment in the court records and shall file the application in the action.

(b) In the case of a money judgment, the entry of renewal shall show separately both of the following as set forth in the application:

(1) The amount of principal (including allowed costs) remaining unpaid under the judgment. In the case of a judgment payable in installments, this amount is the amount of the unpaid past due installments described in subdivision (b) of Section 683.130 and allowed costs.

(2) The amount of unpaid accrued interest on the judgment.

(c) In the case of a judgment for possession or sale of property, the entry of renewal shall describe the performance remaining due.

Comment. Section 683.150 requires that the court clerk enter the renewal of the judgment based on the application. The entry of the renewal by the court clerk is a ministerial act. Section 683.150 requires that the amount of principal (which includes allowed costs) and

§ 683.160

the amount of interest be separately stated in order to avoid compounding of interest.

CROSS-REFERENCES

Costs, addition to principal of judgment \$ [685.080]

Defined terms

Money judgment \$ _____

Interest, accrues on amount of money judgment remaining unsatisfied

\$ [685.010]

32810

§ 683.160. Service of notice of renewal

683.160. The judgment creditor shall serve a notice of renewal of the judgment on the judgment debtor in the manner provided for service of summons by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. The notice shall be in a form prescribed by the Judicial Council and shall inform the judgment debtor that the judgment debtor has 30 days within which to make a motion to vacate the renewal.

Comment. Section 683.160 is derived from subdivision (a) of Section 1710.30 pertaining to sister state judgments. Under Section 683.150, the entry and filing of the renewal is a ministerial act. The judgment debtor is protected, however, by the provisions for notice under Section 683.160 and the opportunity to seek an order vacating or modifying the renewal pursuant to Section 683.170.

32811

§ 683.170. Vacation or modification of renewal

683.170. (a) The renewal of a judgment pursuant to this article may be vacated on any ground that would be a defense to an action on the judgment, including the ground that the amount of unpaid principal or unpaid accrued interest entered pursuant to this article is incorrect.

(b) Not later than 30 days after service of the notice of renewal pursuant to Section 683.160, proof of which has been made in the manner provided by Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2, the judgment debtor, on written notice to the judgment creditor, may make a motion under this section to vacate the renewal of the judgment.

(c) Upon the hearing of the motion, the renewal may be ordered vacated upon any ground provided in subdivision (a), and another and

different renewal may be ordered entered (including, but not limited to, the renewal of the judgment in a different amount if the decision of the court is that the judgment creditor is entitled to renewal in a different amount).

Comment. Section 683.170 is derived from Section 1710.40 pertaining to sister state judgments. If it is determined at the hearing that a different amount of principal (including allowed costs) is due on the judgment than is stated in the judgment creditor's application for renewal or that the accrued interest is incorrectly stated in the application, the court may order renewal in the correct amount pursuant to subdivision (c). On the other hand, if the court determines that the judgment has been fully satisfied or set off, the renewal should be vacated. If a motion to vacate is not made within the time stated in subdivision (b), the judgment remains enforceable in the amounts stated in the application for renewal. See Section 683.150.

32815

§ 683.180. Continuation of judgment lien on real property

683.180. If a judgment lien on an interest in real property has been created pursuant to a judgment and the judgment is renewed pursuant to this article, the duration of the judgment lien is extended until 10 years from the date of the filing of the application for renewal if, prior to the expiration of the judgment lien, a certified copy of the application for renewal is recorded with the county recorder of the county where the real property subject to the judgment lien is located.

Comment. Section 683.180 provides a special procedure for continuing a judgment lien on an interest in real property. See generally Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 (judgment liens on interests in real property). Extension of the judgment lien for an additional 10 years under this section is analogous to the result obtained where a judgment in an action on a money judgment is recorded while a judgment lien under the original judgment is still in effect. See *Provisor v. Nelson*, 234 Cal. App.2d Supp. 876, 44 Cal. Rptr. 894 (1965). The priority of the judgment lien on an interest in real property remains the same, but the extension adds 10 years to the life of the lien dating from the time the application for renewal is filed. See also Section [697.050] (duration of liens). The judgment lien is extended only if the certified copy of the application for renewal is recorded while the judgment lien is still in effect. If the property has been transferred subject to the lien, an extension pursuant to this section extends the lien on the property in the hands of the transferee.

§ 683.190. Continuation of other liens

683.190. If a lien (other than a judgment lien on an interest in real property) has been created by an enforcement procedure pursuant to a judgment and the judgment is renewed pursuant to this article, the duration of the lien is extended, subject to any other limitations on its duration under this title, until 10 years from the date of the filing of the application for renewal of the judgment if, prior to the expiration of the lien, a certified copy of the application for renewal is served on or filed or recorded with the same person and in the same manner as the writ, notice, or order that created the lien.

Comment. Section 683.190 permits the continuation of liens other than judgment liens on interests in real property. Under Section 683.190, however, liens of limited duration, such as execution liens (one year) and judgment liens on personal property (five years), are not increased in duration but are permitted to continue past the 10-year period specified in Section 683.020. See Sections _____ (execution lien), 697.560 (duration of judgment lien on personal property). However, liens governed by the general rule that the lien exists as long as the judgment is enforceable (see Section 697.050) are increased in duration pursuant to Section 683.190.

§ 683.200. Continuation of enforcement procedures

683.200. If a judgment is renewed pursuant to this article, any enforcement procedures pursuant to the judgment or to a writ or order issued pursuant to the judgment that would have ceased pursuant to Section 683.020 had the judgment not been renewed may be continued, subject to any other limitations provided in this title, upon the filing of a certified copy of the application for renewal of the judgment in any such proceeding or with the levying officer, receiver, or other officer acting pursuant to such writ or order.

Comment. Section 683.200 permits the continuation of enforcement procedures under this title that would otherwise have ceased because of the expiration of the period of enforceability. See Section 683.020. For example, a sale of real property pursuant to a writ of execution may proceed after the expiration of 10 years from the date of entry of the judgment if the judgment is renewed within the time allowed and a certified copy of the application for renewal is filed with the levying

officer in charge of the sale. Likewise, an examination proceeding may continue if the certified copy of the application for renewal is filed with the court that is to conduct the examination.

18305

§ 683.210. Renewal during stay of enforcement

683.210. A judgment may be renewed notwithstanding any stay of enforcement of the judgment, but the judgment as renewed remains subject to the terms of the stay of enforcement unless otherwise ordered by the court that issued the order staying enforcement.

Comment. Section 683.210 permits the judgment creditor to obtain an extension of the enforceability of a judgment even though a stay of enforcement is in effect. Renewal may be necessary if a judgment is temporarily stayed during the time that the 10-year enforcement period prescribed by Section 683.020 is running out. Renewal during a stay of enforcement does not affect the stay, but merely prevents the termination of the period of enforceability.

18303

§ 683.220. Limitation period for action on renewed judgment

683.220. If a judgment is renewed pursuant to this article, the date of the filing of the application for renewal shall be deemed to be the date of the entry of the judgment for the purpose of determining the period for commencing an action on the judgment provided by Section 337.5.

Comment. Section 683.220 preserves any right the judgment creditor may have to bring an action on a renewed judgment which would have existed had the judgment creditor earlier resorted to an action on the judgment instead of the renewal procedure provided by this article. See Section 683.050 (right of action on judgment preserved).