

“Bankruptcy and Judgement Liens”

Common Situation explained:

A situation that arises fairly often in title searches occurs when an Abstract of Judgement has recorded and the seller has subsequently filed for relief under the bankruptcy laws. The discharge of the seller's bankruptcy does NOT eliminate the lien of the recorded judgement! Once the judgement has been recorded, it becomes a “perfected lien” and can only be removed by an “Avoidance of Lien Order” from the bankruptcy court.

A bankruptcy discharge may have relieved the debtor of personal liability, but it does not eliminate the lien. In other words, the creditor may not be able to attach the wages or property of the debtor but he still has a lien against the property which can be enforced against a third party...such as a buyer of that property.

A title company will not insure over that lien for this reason and will require either the proper court order or the payment of the lien.

Bankruptcy must be finalized first:

Once discharged through bankruptcy, however, the lien does NOT attach to property purchased after the bankruptcy is final. Thus, a judgement lien against a buyer who went through bankruptcy may not be a concern.

As always, legal counsel should be sought for advice on specific situations.

