



# SHINE BRIGHT

## HOW DO JUDGMENTS AFFECT TITLE?

One function of a title search is to determine whether there are any unsatisfied judgments against the seller or previous owners. The title search encompasses any recorded judgments against parties that could affect title. The search and the presence of any recorded judgments are important to setting expectations with your clients.

A judgment is an order awarded by a court to pay money owed to a creditor. When a judgment is awarded, the creditor can use that judgment to place a lien on the seller's property. At that point, a seller must address the judgment, generally by repaying the debt before he or she can sell, trade or transfer the property.

Mortgage lenders will not generally close on a home with an unpaid judgment. They know that if they do, their mortgage lien might be subject to getting wiped out by a foreclosure. For a smooth closing, taking the steps to remove the judgment is needed.

### What Can a Seller Do to Remove Such a Judgment on Title?

The seller can contact the creditor and try to negotiate a payment plan, a settlement, or a full payoff before listing the home for sale. The seller may be able to settle the debt for less than they owe, but all judgments are different. They may even reach an agreement by which the creditor will issue a release removing the lien from title, leaving the seller free to sell the home.

Once the debt has been paid and/or a satisfactory settlement has been reached, the creditor agrees to release the lien. The sellers must then obtain a release of judgment, and provide necessary documentation before closing. In the event the seller cannot pay off the debt or successfully negotiate with the creditor, there are other options. They should disclose to the listing agent and the buyer upfront that there is a lien on title. If they have enough equity in the home, all parties can agree the seller will pay the lien out of the proceeds at closing.

Laws related to settled debt and judgments can vary from state to state. Some states may have homestead exemptions for primary residences that do not allow a judgment to prevent the sale of a home.

## HELPING YOU SHINE BRIGHT