



## Resolving Common Title Issues

Once the paperwork for a home sale has been submitted, all parties to the transaction hope for - and expect - clear sailing as the transaction heads toward closing. But every now and then, a 'cloud, or a defect' on title shows up; an unwelcome surprise that stands in the way of a timely closing.

A cloud may be as simple as the misspelling of a property's address in a deed conveying title - or the repayment, but failure to officially document, a mortgage lien. It may indicate a failure to convey certain property rights (such as mineral rights) to the former owner of a property, or some other questionable link in the succession of title.

While the title company will typically decline to insure any title to be transferred with a cloud, the owner of the property can, in many cases, easily remove a cloud on title by initiating a quitclaim deed or via a 'quiet title' proceeding. This calls for a document that proves the debt or error associated with the title has either been paid or corrected.

Here are a few of the most common title issues that may typically be noted in the preliminary title report - and a guide toward satisfactorily resolving them:

1. **IRS tax liens** – The IRS can attach liens to a property if taxes are owed. In order to remove the lien, the back taxes must be paid, either beforehand or out of the seller's proceeds at closing.
2. **Unpaid property taxes** – The same is true for delinquent property taxes, which need to be paid before closing.
3. **Judgments** – The seller may have judgments against them for unpaid child support or other unpaid creditors who went to court to obtain the judgment. The lien cannot be removed until the financial obligation is paid off.
4. **Contractor or mechanics liens** – Contractors can file a lien against the property for work they were not paid for. The lien isn't satisfied until their bill is paid and the lien-holder has signed off on it.
5. **Identity affidavit** – As part of the title review process, the title company attempts to match any judgments listed in county records with the names of the seller. From time to time, if the seller has a common name, like 'John Jones,' there may be judgments filed against 'John Jones' that are actually for a different person. To resolve this, the seller will be requested to fill out an identity affidavit.
6. **Encroachments** – There may be evidence in title records of unresolved encroachments or boundary line disputes. If the dispute cannot be resolved voluntarily with neighbors, the seller may need to request and pay for a new survey to determine property lines.