

Bankruptcy Information

For When The Seller Is In Bankruptcy



INSURING A SALE

Insuring a sale of property where the seller has filed for bankruptcy requires *one* of the following:

- The bankruptcy case must be closed
- The bankruptcy must be dismissed, not discharged
- The bankruptcy court file shows the property is exempt (residence only).
NOTE: In a Chapter 13 bankruptcy case, the residence is usually included in the debtor's bankruptcy "Plan", even if it is exempt
- The property is abandoned by the court or the trustee
- A court order authorizes the sale, and the 14-day appeal period has expired.
NOTE: In a Chapter 11 bankruptcy case, an Order Confirming the Plan will re-vest title in the debtor.

A Discharge of Debtor does not release the property from the bankruptcy.

A Motion for Relief from the Automatic Stay only allows the foreclosing lender to proceed with foreclosure; it does not allow the bankrupt borrower to move forward with a sale of the property.

ELIMINATING A JUDGMENT LIEN AGAINST THE SELLER

Bankruptcy does not automatically remove a recorded judgment, which is attached to real property. To eliminate a judgment lien against a seller, you will need a recorded, certified copy of a court order avoiding the lien (usually under Bankruptcy Code Section 522(f)). If no order is issued, then a release will need to be negotiated with the creditors in question.

ELIMINATING FEDERAL AND STATE TAX LIENS

Eliminating these types of liens is next to impossible. Also, do not rely on a bankruptcy order purporting to set aside property taxes.

Ticor Title provides this information as a courtesy, and it is not to be used as legal opinion.

Always check with your legal attorney to evaluate your situation, and to discover the insurability of your real property when a bankruptcy is involved.

