

LAWYERS LINK



HOW TO CHECK FOR LIENS ON A PROPERTY

What Is a Lien on a Property?

In simple terms, a lien is a legal notice that's attached to your property title because of an unpaid debt.

You probably think that you would be aware of a lien on your property, but that isn't always the case. Sellers should consider checking for liens before

they list their home for sale to ensure a smooth and successful transaction. Buyers should request a title search to make sure they aren't going under contract to buy a property with unexpected claims against it. If it does, the closing could be delayed and the deal could even fall through.

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5 Types of Liens on Property

Mortgage Lien: If you take out a mortgage to buy a home, you hold the title to the property, meaning you're the legal owner. However, because you borrowed money from the lender, they place a lien on your home. If you make your monthly mortgage payments, the lien doesn't affect you. Once you fully repay the mortgage – either at the end of the loan term or through the sale of your home – the lender will remove the lien.

Income Tax Liens: When you don't pay your income taxes, the government can put a tax lien on your possessions, giving them first rights to your property if you try to sell it. Similarly, if you fall behind on your property taxes, your local government can put a lien on your house, meaning they get paid first from any sale proceeds before you see a dime.

Property Tax Lien: This lien is essentially a claim on a piece of property for an amount owed in unpaid taxes. It is generated when the owner fails to pay their property taxes, and the lien itself can be sold to the highest bidder to recover the amount that's owed.

Judgment Lien: If someone successfully sues you in court and wins the case, they can obtain a judgment lien that essentially gives them the right to take your property or assets. This lien remains on your property until you either pay what you owe, or the lien expires under your state's laws.

Mechanic's/Construction Lien: Mechanic's liens are legal claims against a property and its owner by contractors, subcontractors, or suppliers not paid for labor or materials provided during construction or renovation.



3 Ways To Search for Liens on a Property

1. Search Public Records

In most states, you can typically conduct a property lien search by address with the county recorder, clerk, or assessor's office online. The process is straightforward. While these searches are usually free, you may need to pay a nominal fee if you want to make official copies of relevant documents.

2. Hire a Title Company

You can hire a title company to conduct a thorough examination of public records and other sources to determine and confirm a property's legal ownership and identify any title defects (including liens) affecting ownership rights. It's crucial to conduct a title search when buying or selling a home to ensure the seller has the authority to transfer the home, as well as to check that the property is free of any liens.

3. Third-Party Websites

Some third-party websites also provide access to property records online. You may be able to search for lien records on the property you're interested in (often for a fee) and access a property report with the necessary information.

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How To Remove Liens

1. Pay Off the Lien

The simplest way to get rid of lien on a property is pay it off. That method is, of course, easier said than done, but it is crucial. Once that's done, the lien holder should file a release with the county recorder's office.

If you're interested in a property that has a lien, you should insist that all liens be cleared before closing and make sure your purchase agreement specifically addresses how they'll be handled. Work with a title company to verify the liens are properly released and be wary if a seller suggests dealing with liens after the sale – that's a significant red flag.

2. File a Dispute

To dispute a property lien, start by gathering documentation that proves why the lien is invalid, such as payment records or evidence that proper procedures weren't followed when the lien was filed. You can file a formal dispute with your county recorder's office, and you may need to schedule a hearing where you can present your evidence and argue your case. If you believe the lien was filed wrongfully or fraudulently, consider working with a real estate attorney who can help navigate the legal process and potentially file a lawsuit to have the lien removed.

3. Request a Lien Release

If you've paid off a lien but it's still showing up on your property records (it happens), you can request a lien release form, which is sometimes called a "satisfaction of lien" or "release of lien." Once you receive this signed and notarized form, file it with your county recorder's office to officially clear the lien from your property's title. If the original lien holder is unresponsive or no longer in business, you may need to provide proof of payment and file an affidavit with the county recorder's office explaining the situation.

4. File a Title Insurance Claim

Title insurance safeguards your property from liens that were there before you became the owner and were not discovered during your title search process.

Please contact your Lawyers Title Representative for more information.

This information is deemed reliable but not guaranteed and should be independently verified.



MONTHLY INDUSTRY TERMS

Certificate of Reasonable Value (CRV)

An appraisal issued by the Veterans Administration showing the property's current market value.

Lien

A claim upon a piece of property for the payment or satisfaction of a debt or obligation.

Negative Amortization

Occurs when your monthly payments are not large enough to pay all the interest due on the loan. This unpaid interest is added to the unpaid balance of the loan. The danger of negative amortization is that the home buyer ends up owing more than the original amount of the loan.