

## HOW JUDGMENT LIENS AFFECT TITLE

A judgment lien attaches automatically to non-exempt (i.e., non-homestead) real property owned or acquired by the judgment debtor and located in the county in which the judgment is entered, or in which an abstract of judgment is filed, to secure satisfaction of the judgment. RCW 4.56.190-200. The judgment lien is effective for ten years after the date of entry of the judgment. The lien is extinguished upon full satisfaction of the judgment or upon release of specific property encumbered by the lien.

Prior to 1984, a judgment lien did not attach to homestead property. *Mahalko v. Arctic Trading Co.*, 99 Wn.2d 30 (1983). However, a judgment lien now does attach to the value of the property in excess of the homestead exemption (presently \$40,000 in "net value"). RCW 6.13.090. In other words, a judgment lien does not attach to the debtor's principal residence, unless the debtor's equity exceeds \$40,000.

With respect to real estate contracts, judgment liens do attach to the purchaser's interest in non-exempt real property being purchased under a real estate contract, *Cascade Security Bank v. Butler*, 88 Wn.2d 777 (1977), but no longer attach to the seller's interest under the contract. RCW 4.56.190 (effective August 23, 1983).

Generally, the priority of a judgment lien is determined by when the judgment is entered or the abstract of judgment is filed. However, a judgment creditor is not a bona fide purchaser or encumbrancer within the meaning of the recording act. Therefore, a judgment lien is junior to a prior unrecorded mortgage or deed. *Aberdeen Fed. Sav. & Loan Ass'n v. Empire Mfd. Homes*, 36 Wn. App. 81 (1983), cert. denied, 100 Wn.2d 1041 (1984).

With respect to judgments against a purchaser, a purchase money security interest has priority over a prior judgment against the purchaser, *Bisbee v. Carey*, 17 Wash. 224 (1897), although some title insurance companies are reluctant to insure the priority of a purchase money security interest over a prior judgment lien against the purchaser.

Appealing an adverse judgment does not in itself stay enforcement of the judgment or preclude the judgment lien from attaching; the judgment creditor must post a supersedeas bond in order to stay the judgment lien pending appeal.

Of course, as with most liens, the foreclosure of an underlying encumbrance eliminates a junior judgment lien.

Judgment liens cause serious title problems in a pending transaction. However, frequently such problems can be solved. If a judgment lien appears on a title report for a pending sale, and if the property is homestead property in which the seller's equity is \$40,000 or less, then the judgment does not constitute a lien against the property and the title insurance company should remove the judgment lien from the exceptions to the title report. Otherwise, the seller must pay the judgment or obtain from the judgment creditor a release of the property. Generally, if the amount of the judgment exceeds the seller's net proceeds from the sale, the judgment creditor is willing to release the judgment lien in exchange for payment of all or most of the seller's net proceeds.

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