

TITLE TALK

Old Republic National Title Insurance Company

Winter, 2011

Volume 22, Number 4

PENNSYLVANIA EDITION

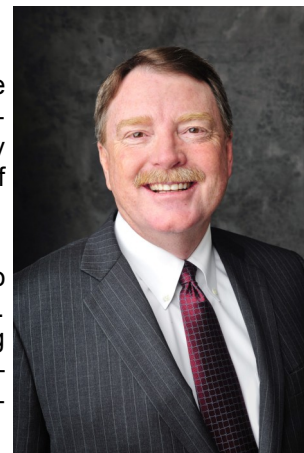
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A Holiday Message From The President

Dear Friends:

This year marks my second in the upper Midwest and already I've found myself developing a sense of excitement when the first flurries fly. While I can live without the cold, there is something blissful about falling snow that launches me into the holiday spirit. I know I'm not alone when I say that as soon as the white stuff starts accumulating, I become sentimental. Suddenly I find myself reflecting on past holidays, and the special memories created with family and friends.

It is during the holiday season that we often reflect on the year that has passed and the one yet to come. 2011 has not been without its challenges. The housing market continued to struggle. Home prices fell or remained flat, and an excess supply of houses await families and young people that can't afford them due to more restrictive loan qualifications and limited job growth. Other aspects of the economy have suffered as well, creating an environment that for many is uncertain.



Having weathered many uptimes and downtimes, we know that the best strategies are tried and true. Looking to 2012, I am confident in our ability to thrive. At Old Republic Title, we're not here to rewrite the book. Built upon a solid financial foundation, we will continue to employ the same conservative management philosophy and commitment to making ethical business decisions that we've utilized since 1907. It is this adherence to doing business with integrity and standing by our obligations that has made Old Republic Title the highest overall rated title insurer in the nation for 19 straight years. It also has contributed to the continuance of our market share growth, as well our reputation for superior products and services.

Key to the success of our Company has been the dedication and support of our employees, agents and customers. As a wise person once said, "You cannot plow a field by turning it over in your mind." At Old Republic Title, we aren't afraid to roll up our sleeves. We don't sit by the sidelines. Your commitment and hard work make countless American Dreams possible. Thank you for your friendship, loyalty and business.

All of us at Old Republic Title wish you and yours a joyous and peaceful holiday season. May the New Year bring you continued wellbeing, happiness and success.

Sincerely,

Mark Bilbrey
President, Old Republic Title Insurance Group

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Common Lien Issues

Michael P. Davis, Assistant Vice President and Underwriting Counsel

What is the effect of Bankruptcy on a judgment lien?

How often have you heard “I filed Bankruptcy and that debt has been discharged?” So is the customer correct? Has it been discharged?

If indeed the customer did receive a discharge in Bankruptcy, he is correct that the debt has been discharged, but the *debt* is not your problem. Your problem is the *perfected judgment lien*. A debtor can obtain a discharge of some or all of his indebtedness if the debtor meets the statutory requirements for the discharge pursuant to 11 U.S.C. Section 727, 944, 1141, 1228 or 1328. So what is the effect of the discharge according to 11 U.S.C. § 524?

(a) A discharge in a case under this title

- (1) voids any judgment to the extent that such judgment is a determination of the personal liability of the debtor with respect to any [prepetition] debt discharged under ...this title...;
- (2) operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt as a personal liability of the debtor...;

Pursuant to Section 524 (a) of the Bankruptcy Code, the debtor receives a discharge from **personal liability** for most pre-petition debts under the applicable provisions of the bankruptcy code, including debts evidenced by a pre-bankruptcy judgment. Further the debtor is protected from court actions to collect, recover, or offset any discharged debt as a **personal liability** of the debtor. Because Section 524 (a)(1) states that the discharge “voids any judgment,” one might assume that the effect of a discharge is also to void the judgment lien against the real property of the debtor, when the judgment was obtained prior to the debtor’s bankruptcy case. That language might lead you to erroneously conclude that the lien is discharged and not require the satisfaction of the lien.

The United States Supreme Court, however, has held that a creditor’s right to foreclose on a lien survives the bankruptcy proceedings notwithstanding the discharge of personal liability of the debtor pursuant to 11 U.S.C. Section 524(a). See *Johnson v. Homestate Bank*, 501 U.S. 78,82-83, 111 S. Ct. 2150, 2153, 115 L. Ed. 2d 66, 73-74 (1991). Therefore, while the personal liability of the debtor is discharged, the lien on the property remains. You need to require satisfaction or release of the lien.

Keep in mind that the judgment lien will only attach to property owned by the debtor prior to the Bankruptcy filing. It will not attach to property acquired by the debtor after the Bankruptcy.

Is there anything that would prohibit the judgment lien from surviving? The only way the judgment lien will not survive the Bankruptcy is if during the Bankruptcy proceedings, the debtor’s attorney takes the necessary steps to avoid the lien based upon its impairment of the debtor’s exemptions provided under Pennsylvania law. If the court enters an order avoiding the lien, then not only is any action on the debt enjoined, but any action against the property is also enjoined.

What property does a judgment lien attach?

The simple answer: *all property owned by the debtor in the county in which the judgment is filed*. Do not make the mistake of only applying a judgment lien against a particular property simply because that is the address listed on the judgment. A prime example of limiting the judgment to particular properties is in the case of a judgment in favor of a Homeowners Association against a builder. Just because that judgment originates due to the builder’s failure to pay the association dues on properties in one development does not limit that judgment lien to just the properties in that development. *The judgment lien against the builder will attach to all properties in the county which are owned by the builder.*

We’re Going Social!! Facebook and Twitter

Old Republic Title has recently launched a Facebook page. Please feel free to check it out and click on “Like.” In addition, you can now follow Old Republic on Twitter at “@OldRepTitle”.



Credit Corner

Need credits? Take a look at these quick online resources:
www.plti.org

UPCOMING SEMINARS:

April 19, 2012

**Old Republic Seminar (6 credits)
Pittsburgh Airport Marriot**

- **Insuring High Risk Transactions**
- **Everything an agent needs to know about E&O Policies.**
- **Legal and Regulatory Issues**
- **Title Jeopardy**

JUST WHEN YOU THOUGHT YOU UNDERSTOOD THE 2010 HUD-1...

... “first drafts” of two possible Settlement Disbursement Forms (SDFs) which would replace the 2010 HUD-1 (as required by the Dodd-Frank Act), were released!

After a fifth round of testing the combined initial Mortgage Disclosure Form (replacing separate GFE and TILA disclosures), the Consumer Financial Protection Bureau (CFPB) posted two alternative prototype SDFs (one 5 pages long; the other, 6 pages long) on its website the week of November 7. Input was sought from both consumers and title industry professionals during a one-week comment period. Although the SDF drafts are not currently available on the CFPB website, they can be

viewed from links in the 11/22/11 blog post by Mary Schuster, a member of ALTA’s RESPA Task Force, at www.RESPAready.com.

A few items jump out fairly quickly... more specific itemized line items, but little room for additional items; new columns for Paid Outside of Closing (POC) items; and Title Charges now become the “1000” series instead of the “1100” series to which we’ve all been accustomed since the original HUD-1 came into existence.

It is anticipated that the CFPB will conduct four rounds of testing and revisions between now and February 2012, with a proposed rule out next spring, leading to rulemaking procedures in July 2012. While voting has closed on the first drafts, voting on preferred versions of later drafts will be open for one week after posting on the CFPB website. Visit: www.consumerfinance.gov/knowbeforeyouowe to sign up for e-mail updates as the project progresses.

ALTA’s RESPA Task Force has submitted comments to the CFPB focusing on four major points: integration of increased specific information relating to the loan transaction; section formatting (including reordering/renumbering of line items and itemization); continued use (or not) of “roll-up” lines; and tolerance issues. The Task Force is scheduled to meet with the CFPB on December 6. Stay tuned... we’ll keep you updated as new information is available!

Old REpublic Title REminders.....

- **REconcile to a Trial Balance Monthly**
- **REview Reconciliation Timely**
- **RECTify Discrepancies and Deficiencies Immediately**
- **REmit/Report Policies Regularly**



Tired of Traveling Alone?



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 **OLD REPUBLIC TITLE** - *The agent's choice for underwriting* -

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