



DOES BANKRUPTCY AUTOMATICALLY GET RID OF A RECORDED JUDGMENT?

NO IT DOES NOT.



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A considerable amount of property owners that have been through bankruptcy are unaware of their personal obligations vs. their real property. For example, Mary Smith owes money to "Credit Card Company X" and does not pay them. "Credit Card Company X" goes to court and then records a judgment. Mary Smith files bankruptcy and list "Credit Card Company X" as a creditor and then receives a full discharge issued by the bankruptcy court. This means she no longer owes "Credit Card Company X" any money. This is where most bankruptcies begin and come to an end. The recorded judgment is attached to the real property and is NOT removed, discharged or satisfied. Mary Smith's personal obligation to repay "Credit Card Company X" was removed by the bankruptcy but the judgment is still attached to the real property.

In order for the property to be free of the judgment by the bankruptcy there must be an ORDER TO AVOID LIEN issued by the bankruptcy court for that specific judgment. If no order is issued then a release will need to be negotiated with "Credit Card Company X".

This is something to keep in mind as transactions are getting within a couple days of closing and title is being asked to remove judgments that were part of a bankruptcy. If the property owner has been through bankruptcy, the agent needs to ask the property owner for a copy of the Order to Avoid Lien if a judgment or lien is in the preliminary report. If there is no Order to Avoid Lien the owner should contact their attorney or the bankruptcy court to see if it can be obtained, absent that, a release must be negotiated with the holder of the judgment.

