

## HOW TO PERFORM A LIEN SEARCH

### BACKGROUND

**What is a lien?** Generally, a lien comes in the form of a written document that reflects the right to a person's asset or assets until a debt owed by that individual is paid. There are two categories of liens: (1) voluntary (consensual) liens created by a contract between the creditor and the debtor, and (2) involuntary liens, such as statutory liens and judgment liens. Consensual and judicial liens must be filed with the appropriate governmental office for the lien to be considered "perfected," which provides proper notice of the lien. Voluntary liens include mortgages, deeds of trust, vehicle liens and UCC liens. Involuntary liens include judgment liens, tax liens and mechanic's liens.

**Lien priority.** Generally, property tax liens take priority and the relevant government authority may force the sale of the property to pay delinquent taxes. Mortgages and judgment liens recorded against a property are generally given priority based on the order in which they were recorded.

**What is the difference between a property lien and a personal lien?** A property lien attaches to a particular property and a personal lien (also known as a "general lien") attaches to the person *and* includes his/her wages, bank accounts and all non-exempt assets. Income tax liens attach to the individual and all assets owned by the individual so the taxing authority has the option to garnish an individual's bank accounts or force the sale of property or other non-exempt assets owned by the individual.

**What is a UCC lien?** UCC is an acronym for Uniform Commercial Code and comes in the form of a financing statement filed with the Secretary of State where a debtor allows a creditor to place a lien on certain personal property owned by the debtor to secure financing.

**Does a personal lien automatically attach to the property a person owns?** No. If a creditor obtains a judgment against an individual but fails to properly record that judgment to "perfect the judgment lien," the individual may sell his/her property and transfer title to a new owner and leave the creditor unpaid.

### LIEN SEARCH CHECKLIST

1. Complete searches at the relevant governmental offices (county recorder, county assessor, city planning, etc. – the names of the offices will depend on the county or state). NOTE: It is critical to search by both the property address and/or parcel number AND by name to maximize the chances of accurate results. Frequently, documents are inadvertently indexed under the name OR the property address, but not both. If the property is within a homeowner's association, also be sure to search by that association's legal name to find any special assessment liens.
2. Review the relevant statutes that create statutory liens against the property (for example, homeowner's association assessments).
3. When searching the county records, make sure to look for all lien-related documents. For example: IRS liens, state tax liens, abstracts of judgments, money judgments, hospital liens, child support liens, mortgages, deeds of trust, lines of credit, mechanic's liens, and other documents that constitute a lien on a personal or property.

[U.S. Title Records](#) assists clients across the globe obtain the information they need for property located within the United States or its territories quickly and conveniently. Review the service options in the following link: [Property Records](#).

<b>LIEN EXAMPLE</b>	<b>TYPE OF LIEN</b>	<b>ATTACHES TO:</b>	<b>ACTION TO PERFECT LIEN</b>
Mortgage (title held by buyer/borrower; judicial foreclosure)	Voluntary	Real estate	County Recorder
Deed of Trust (title held in trust by trustee until loan is paid; if borrower defaults; non-judicial foreclosure)	Voluntary	Real estate	County Recorder
Self-Storage Lien	Voluntary	Storage room contents	Signed contract
Vehicle Lien	Voluntary	Vehicle	State Department of Motor Vehicles
Property Tax Lien	Involuntary	Property	Statutory
IRS Lien	Involuntary	Person (wages and bank accounts) and all nonexempt assets owned by the individual.	Statutory
State Tax Lien	Involuntary	Person (wages and bank accounts) and all nonexempt assets owned by the individual.	Statutory
Mechanic's Lien	Involuntary	Property	County Recorder
Homeowner's Association (HOA) and Special Assessments issued by a regulatory authority	Involuntary	Property	Statutory (and sometimes recorded)
Judgment Liens	Involuntary	Person (wages and bank accounts) and all nonexempt assets owned by the individual.	County Recorder