



TITLE TALK By: Katie Button



Call or email
anytime with
questions!

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Attachments, Judgments and Writs.....OH MY!

A title exam can reveal many types of encumbrances burdening a property but judicially created attachments, judgments and writs present a unique dilemma of figuring out when they expire.

Attachments: An Attachment is a court order that does exactly what it's called. It "attaches" to the property and must be removed with a release or die by expiration. If your attachment is old enough to drive a car (16) it's expired. If it's less than 16 years old, you need to determine if the underlying case went to judgment or not. This involves calling or visiting the court and reviewing the docket. The docket is a listing of all activity in the court file and if the case went to judgment, it will be listed on the court docket. The NH Judicial System's main number is 855-212-1234 and if you ask nicely they will email you a copy of the docket but there are times the actual court file will also need to be reviewed if the docket notes aren't clear. If the underlying case went to judgment, the attachment expires 6 years from the date of judgment. RSA 511:55, I. If the underlying case did not go to judgment, the attachment expires 10 years from the date the attachment was recorded in the Registry of Deeds. RSA 511:55, II and III. Attachments apply to all property owned by the named party in the County unless the order specifically limits the attachment to a property.

Judgments: Once a case is completed and the Court issues a judgment, the judgment may be recorded in the Registry of Deeds. Beginning September 5, 2008 a certified copy of a small claims judgment recorded in the Registry of Deeds created an attachment burdening the real property owned by the losing party. RSA 503:12, II. The judgment creates an attachment so it survives for 6 years from the date of judgment. If the case number has a CV in the number or originates from a District Court, it's likely a small claims judgment. If you have any doubt, call the issuing court and ask. Beginning January 1, 2017, a judgment from any New Hampshire Court recorded in the Registry of Deeds, with an affidavit confirming notice was provided to the property owner, creates a judgment lien which lasts for 20 years! RSA 524:13. An old judgment issued prior to 2017 but less than 20 years ago can be recorded in the Registry now and create a 20 year judgment lien. If you find any judgment recorded after January 1, 2017 it must be released in order to clear the title.

Writs of Execution: Once a case goes to judgment, the prevailing party can request a Writ of Execution which is the first step in a process to sell the burdened property to satisfy the judgment. This process very rarely goes to actual completion and requires a Sheriff sale of the property which is beyond the scope of this newsletter. Writs of Execution expire on the return date listed in the Writ if a Sheriff sale is not also completed. A good rule of thumb is, if a Writ is recent, less than a year old, but beyond the return date the court should be contacted to determine if the return date was extended. If it wasn't the Writ is expired. If the Writ is more than a year beyond the return date with no Sheriff sale, it's expired.

The Basics: Attachments: 16 years – expired OR 10 years from date of attachment recorded OR 6 years from date of judgment

Judgments: 6 years small claims recorded 9/5/08 - 12/31/2016 OR 20 years any recorded after 1/1/2017

Writs: Expire on return date if no Sheriff sale OR call court to check for extensions if less than 1 year old.

Sheriff sale: CALL YOUR UNDERWRITER

What's your title question? Send us information on what you want answered in our future editions

We have started a commercial endorsement presentation series. If your firm or title company is interested in having us join you for an hour to review commercial endorsements, contact us and we can work with you to schedule a convenient date and time to come into your office.