

What to do if there is a lien on your house

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If there is a lien on your house, it means that someone has a legal claim to your property. A notice of lien will typically be delivered or mailed to you notifying you that someone has placed a lien on your house.

A lien is a legal claim on property that secures payment of a debt and is registered on the title of the property. Liens can be registered by an individual or company on both real and personal property such as vehicles, homes and land. When a lien is placed on a home, it is typically due to unpaid debts.

There are various types of liens that can be registered on a home including a Tax Lien for unpaid property taxes, a Builders' Lien for failing to pay contractors for work done on the home, a lien by Canada Revenue Agency for unpaid taxes, a Creditor Lien, or a Judgement Lien if you owe money to someone and the court has ordered that they place a lien on your home to secure payment of that debt.

Having a lien on your home makes it difficult to sell or refinance because of the debt owing to the creditor, bank, or whoever registered the lien on your home. The lien is a practical and legal barrier to dealing with your house.

The individual or company who registered the lien on your home is known as a lienholder. The lienholder will often make efforts to collect the money owing to them prior to placing a lien on a home. For example, if an owner fails to pay property taxes, the City or Municipality in which the property is located will contact the owner to inform them of the balance owing and provide the owner an opportunity to pay the debt owing prior to placing a lien on the home. Similarly, typically a Creditor or Revenue Canada will have been in communication with you long before the actual lien shows up on your title.

If you discover there is a lien on your home, the first step is to contact the lienholder to determine the specifics including the amount of debt owing and who it is owed to. Depending on the type of lien, it may be necessary to discuss ways to pay off the debt and settle the lien. Once the homeowner has paid the debt, it is important to get such proof in writing so either the lienholder or the homeowner can remove the lien.

If you cannot pay the debts owing to settle the lien, you may need to sell your home or refinance it, and you will typically have to engage a lawyer to ensure that the lien is cleared as part of the sale or refinance.

Builders' Liens are a unique type of lien that occur when anyone who has done work on your home has not been paid for the work completed. If there is a Builders' Lien registered on your home, you will want to discuss it with a lawyer or the general contractor, as the lien may have been registered by a sub-contractor due to unpaid debts owing by the general contractor.

There are protections for owners in this situation. When hiring a general contractor to do work on your home, the legislation requires that you hold back 7.5% of each payment (called a "holdback"). If the general contractor that you made payments to has failed to pay the subcontractor, then you may be expected to pay that "holdback" to the subcontractor or to the court to clear the lien.

If you are unsure whether there is a lien on your home, a title search of your property will reveal any liens registered against the home. If the lien is complicated and you are unsure of how to proceed, a lawyer can help you navigate the process.

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