

Judgements in Bankruptcy

Q: My search returns judgments that my seller claims were included in a bankruptcy and provided proof thereof; is this enough for me to omit?

A: No. The discharge obtained in a bankruptcy proceeding only removes the bankrupt debtor's personal liability but does not affect the lien of the judgment on real estate owned by the debtor prior to filing the bankruptcy proceeding.

A superior court judgment against a person or entity who owns real property creates two sources of recovery – the judgment debtor individually as to personal property and the judgment debtor's real property. A discharge in bankruptcy only relieves the bankrupt debtor of personal liability on a judgment debt. Unless the bankruptcy court avoids or specifically eliminates the judgment lien in the bankruptcy proceeding, the judgment's status as a lien on real estate owned by the bankrupt debtor is unaffected by a discharge in bankruptcy.

These judgments are addressed in the usual way – discharge, release, etc. In addition, a debtor may avail themselves of the statutory procedure for cancellation of judgments after a discharge in bankruptcy.