



OLD REPUBLIC
National Title Insurance Company

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Bulletin

To: All Agents, Direct Operations & Attorneys in the State of Texas
From: David W. Rhodes, Sr. Underwriting Counsel
Date: August 24, 2007
Re: Judgments on Homestead Property

SB 512 amended several sections of the Property Code dealing with the effect of a recorded Abstract of Judgment and Homestead property. Section 52.001 was amended to state that an Abstract of Judgment will not attach to property that is exempt from forced sale under the Texas Constitution. ORT will not rely on this alone to delete an abstract of judgment affecting homestead property. You can anticipate that attorneys will make this argument to persuade you that nothing further is needed. See the Underwriting Guidelines set forth below.

The Act sets up a procedure where the Judgment Debtor may file an affidavit in the real property records which will serve as a release of the Abstract of Judgment. Requirements for the affidavit are set out in the statute and include the following:

- must be sworn to by the owner of the property;
- contain a legal description;
- state that the property is homestead property and does not exceed 10 acres if urban or 200 acres for a family if rural;
- provide the recording information of the Abstract of Judgment.

The affidavit must attach evidence that the affiant sent a letter and copy of the affidavit to the Judgment Creditor by certified mail, return receipt requested thirty (30) days or more prior to the recording of this affidavit. The letter and copy of the affidavit must be sent to the Judgment Creditor's last known address; the address appearing in the pleadings, if different; and to the Judgment Creditor's attorney at his address shown in the pleadings or as listed in the records of the State Bar of Texas, if different. This affidavit with proof of mailing of the notice letter will serve as a release of the Abstract of Judgment, once recorded.

The Judgment Creditor may file a Contradicting Affidavit asserting that the Judgment Debtor's affidavit is untrue; or that another reason exists as to why the judgment lien attaches to the Judgment Debtor's property. No time period for filing of the Contradicting Affidavit is set out by the statutes.

Effective September 1, 2007

Underwriting Guidelines:

- DO NOT eliminate a requirement as to a release of an Abstract of Judgment based on the statute above. Obtain a copy of the affidavit with all attachments and we will consider the effectiveness of the affidavit to act as a release on a case by case basis.

Any questions concerning this Bulletin should be directed to the Legal Department.

Underwriting Counsel

David Rhodes
Steve Streiff

Administration

Kindra Wessel
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