

# Bankruptcies: How Do They Affect a Title Transaction?



**Bankruptcy** can significantly affect a real estate title transaction because it **creates legal restrictions** around a property owner's assets, including real property. When a seller or borrower is in an active bankruptcy, their ability to sell, refinance, or transfer title is limited by court oversight. Title companies must verify bankruptcy status early in the transaction to determine whether court approval is required and whether the transfer is legally permitted. Failure to properly address a bankruptcy can result in delays, rejected recordings, or even a voided transfer.

**When a bankruptcy is filed, an automatic stay goes into effect.** This stay temporarily stops most collection actions and transfers involving the debtor's assets. In a title transaction, that means a sale or refinance cannot move forward unless the bankruptcy court authorizes it. Depending on the chapter filed, the bankruptcy trustee may also have an ownership interest or control over the transaction, and their approval and signature may be required on closing documents.

**Different bankruptcy chapters affect title differently.** In a liquidation-style case (Chapter 7), assets may be sold to satisfy creditors, and the trustee often plays a central role in approving and processing any property transfer.

In a reorganization-style case (Chapter 11), the debtor may retain property but still needs court permission to sell or refinance. The title officer will review the bankruptcy filing, schedules, and court orders to confirm who has authority to convey title and under what conditions.

**Bankruptcies also affect liens** and payoff demands. Existing mortgages, judgments, tax liens, and other encumbrances may be treated differently within the bankruptcy proceeding. Some debts may be reduced, restructured, or discharged, but liens against property often survive unless specifically avoided by court order. Title and escrow must carefully review payoff statements and court rulings to ensure all enforceable liens are properly handled at closing.

**Because of these complexities, transactions involving a bankruptcy typically require additional documentation and longer timelines.** Court orders approving the sale or refinance, trustee instructions, and certified bankruptcy records are often required before closing and recording can occur. Early disclosure of a bankruptcy by the buyer or seller helps title and escrow coordinate with legal counsel and the court, reducing surprises and helping the transaction close as smoothly as possible.

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