



*A Division of Ohio Bar Title Insurance Company
A First American Company*

TITLE ALERT

Title Alert 2013-02

January 8, 2013

Judgments Against Settlor(s) of Revocable Trusts

Purpose: To address the effect of judgments filed against the Settlor of a revocable trust on real property transferred to the trustees of the revocable trust, and to establish standards on how to handle them.

Background: As discussed in Title Alert 2012-07 Trusts and Trustees, a trust is a fiduciary relationship in which one person (the "Settlor") transfers property to another person or entity (the "Trustee") to hold and manage for the benefit of yet another person (the "Beneficiary") pursuant to the terms of a written directive (the "Trust Agreement"). As further discussed therein, there are different types of trusts, including those that are revocable by the Settlor(s) and those that cannot be revoked by the Settlor(s).

Pursuant to the Uniform Trust Act, under which trusts are governed in Pennsylvania, the real property held in a revocable trust is subject to the claims of the Settlor's creditors. 20 Pa.C.S. Sec. 7745(1) & (3). In other words, judgments filed against a Settlor of a revocable trust will attach as liens on real estate held in the revocable trust in which the debtor is the Settlor and Beneficiary. In addition, trust property is also subject to creditors' claims against the Settlor's estate, even though the trust property is not part of the Settlor's probate estate.

Standard: In addition to the trust requirements set out in Title Alert 2012-07, if title to real property is held by trustees of a revocable trust¹, the name(s) of the Settlor(s) of that trust must be searched for judgments and liens. If a judgment/lien is found against the Settlor, regardless of whether entered prior to or after the property was transferred to the trustees, it must be dealt with in the same manner as if the Settlor currently owns the real estate in his/her individual name.

Please note that once a married couple who are vested with title as tenants by the entirety transfers real property to trustees of a revocable trust, even if the couple are the grantees as co-trustees of a joint revocable trust, the property is no longer held as tenants by the entirety, meaning that a judgment against one of the spouses will attach to the property transferred to the trustees. Judgments against one of the spouses which are the type that attach to after-acquired property will also attach when the deed is recorded into the trustees.

This Alert supplements Title Alert 2012-07-Trusts and Trustees.

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¹ If unsure about whether a particular trust is revocable or not based on its name, you should treat it as a revocable trust for purposes of this Communication, until you have verified it after reviewing the trust agreement.