

**National Investors Title Insurance Company**



# LIENS AND LIMITATIONS

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Presented By:

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### **VOLUNTARY LIENS BY TYPE, DURATION & AUTHORITY**

Deed of Trust or Vendor's Lien	Four years from either note maturity <u>or</u> from date of default & acceleration of debt	Texas Civil Practice & Remedies Code §16.035
	NOTE: Applicable also to voluntary owelty liens created by agreement & evidenced by deed of trust	Texas Property Code §41.001(b)(4)
	NOTE: Extends to six years for liens held by FDIC as conservator or receiver or an FDIC assignee	12 USC §1821(d)(14)
	NOTE: NO limitation for liens held by a federal Beneficiary (most commonly SBA, HUD, VA, FmHA (now Farm Service Agency))	28 USC §2415
UCC Financing Statement	Five years from recording date	Texas Business & Commerce Code §9.515
	NOTE: Continuation statement may be filed within six months before expiration of the 5 year period	
	NOTE: Mortgage as financing statement is effective as to fixtures until the mortgage is released or satisfied, or its effectiveness otherwise terminates (i.e. see Deed of Trust)	
Mechanic's Lien Contract	Four years from either note maturity <u>or</u> from date of default & acceleration of debt	Texas Civil Practice & Remedies Code §16.035

## COMMON INVOLUNTARY LIENS BY TYPE, DURATION & AUTHORITY

Mechanic's Lien by Affidavit (Constitutional)	Four years	Texas Constitution, Article 16 §37
	NOTE: Created under constitution, no lien filing required. Requires contract between owner and contractor; mechanic's lien contract must be filed of record for homestead.	
Mechanic's Lien by Affidavit (Statutory)	Two years (non-residential) One year (residential)	Texas Property Code §53.158
	NOTE: Filing period runs from <u>either</u> one year from completion, termination or abandonment of work <u>or</u> 16 months from last date labor/materials furnished (residential)/29 months from last date labor/materials furnished (non-residential), whichever is later (see statute for calculation of period for filing of affidavit, these are maximum periods)	Texas Property Code §53.052
Abstract of Judgment	Ten years from date of recording & indexing	Texas Property Code §52.006(a)
	NOTE: Twenty years from date of recording & indexing for judgments in favor of the State of Texas or a state agency, renewable for an additional twenty years if notice of renewal is filed within original twenty-year period (revised from ten year limitation effective April 23, 2007)	Texas Property Code §52.006(b), Texas Government Code §403.055
	NOTE: Twenty years from date of recording & indexing for federal judgments, renewable for an additional twenty years if notice of renewal is filed within original twenty-year period	28 USC §3201(c)

## STATE LIENS BY TYPE, DURATION & AUTHORITY

“Title 2” liens (Sales, excise & use taxes, hotel occupancy tax, occupational tax, state inheritance tax, franchise tax)	<u>Assessment</u> must be made within four years after tax became due and payable	Texas Tax Code §111.201
	NOTE: NO limit on assessment where taxpayer has filed false or fraudulent report, no tax report was filed, or tax report contains gross error	Texas Tax Code §111.205
	<u>Collection</u> by enforcement of lien or otherwise must be made within three years of recording of lien	Texas Tax Code §111.202
	<u>Lien</u> has NO limitation, continues until paid	Texas Tax Code §113.105
Workforce Commission Lien (Unpaid wages – “payday” lien)	NO limitation	Texas Labor Code §61.081 et seq.
Workforce Commission Lien (Unemployment compensation)	Three year limit for commission to bring civil action or serve notice of assessment following contribution due date, NO limit where employer willfully evades enforcement	Texas Labor Code §213.033
	<u>Lien</u> has NO limitation, continues until paid	Texas Labor Code §213.057, 213.058
Criminal Restitution Lien	Ten years from filing date  NOTE: Lien may be re-filed within original ten year period to extend an additional ten years from date of re-filing	Texas Code of Criminal Procedure §42.22 §§12(a)
Child Support Liens	Ten years from filing date  NOTE: May be renewed for additional ten-year periods	Texas Family Code §157.318(d)

## STATE LIENS CONTINUED

Solid Waste Facility Remediation Costs	NO limitations	Texas Health & Safety Code §361.194
Surface Coal Mining Reclamation	NO limitations	Texas Natural Resources Code §134.150

## FEDERAL LIENS BY TYPE, DURATION & AUTHORITY

Federal Income Tax Lien	Ten years from assessment of tax	26 USC §6502(a)(1)
	NOTE: May be re-filed within the one-year period ending 30 days after expiration of ten years from date of assessment – REVIEW column (e) of the Notice of Federal Tax Lien to verify period for re-filing has expired	26 USC §6323(g)(3)
Federal Estate Tax Lien	Ten years from decedent's date of death	26 USC 6324(a)
	NOTE: Inchoate lien, no notice filing required	
Federal Gift Tax Lien	Ten years from date of transfer	26 USC 6324(b)
	NOTE: Inchoate lien, no notice filing required	
	NOTE: Transfer to a bona-fide purchaser or holder of a security interest of any part of the gift property divests that part of the property of the lien	
Criminal Restitution Lien	Twenty years from entry of judgment	18 USC §3613
	NOTE: Liability to pay fine terminates twenty years from entry of judgment, twenty years from the release from prison of the person fined, or upon the death of the individual fined	

## **COUNTY LIENS BY TYPE, DURATION & AUTHORITY**

Ad Valorem Tax Lien	Twenty years from February 1 following the calendar year taxes were assessed	Texas Tax Code §33.05(a)(2)
Assessment for Road Improvements	NO limitations	Texas Transportation Code §253.009
Repair or Removal of Shoreline Structure	NO limitations	Texas Local Government Code §233.001
Litter Lien	NO limitations	Texas Health & Safety Code §365.034
Abatement of Public Nuisance (Junk, Sanitation, Weeds, Swimming Pools, Flea Markets, Refuse)	NO limitations  NOTE: Applies only to unincorporated area of a County	Texas Healthy & Safety Code §343.011, 343.023
Assessment for Public Improvement District	NO limitations	Texas Local Government Code §372.018

## **MUNICIPAL LIENS BY TYPE, DURATION & AUTHORITY**

Demolition Lien	NO limitations	Texas Local Government Code §214.0015
Assessment for Street Improvements	NO limitations	Texas Transportation Code §313.054
Utility Services Lien	NO limitations	Texas Local Government Code §552.0025
Assessment for Water/Sewer Systems	NO limitations	Texas Local Government Code §552.065, 552.067
Weed & Sanitation Lien	NO limitations	Texas Health & Safety Code § 342.007, 342.008
Abatement of Floodplain Violation	NO limitations	Texas Local Government Code §54.020
Assessment for Public Improvement District	NO limitations	Texas Local Government Code §372.018

## MISCELLANEOUS LIENS BY TYPE, DURATION & AUTHORITY

Water Improvement Districts	NO limitations	Texas Water Code §55.604
Water Control Districts	NO limitations	Texas Water Code §51.509
Broker's & Appraiser's Lien	Two years from date commission is payable	Texas Property Code §62.062
Broker's & Appraiser's Lien (Deferred commission)	Two years from date commission is payable OR ten years from date of recording original notice or date of recording renewal notice, whichever is later	Texas Property Code §62.062
	NOTE: May be extinguished if property is re-zoned or restricted to single-family use within 360 days after commission is payable and zoning or restriction persists for two years	Texas Property Code §62.031