

Legal Questions & Answers

November 2017

Question: Is a seller required to pay off a judgment that has been attached as a lien against their property before they can sell it? If a transaction closes before the judgment has been paid off or removed, does the lien remain attached to the property?

Answer: If the judgment has attached as a lien against the property, the title company will require it to be paid off or removed in order to insure title for the buyer. If it was not removed or paid off, it could still act as a lien against title.

Question: If a listing indicates that the buyer's agent is to receive a 1.25% commission and it has instructions to contact the seller directly regarding any offers or showings, is the buyer's agent allowed to speak with the seller directly regarding compensation?

Answer: The compensation should be discussed with the listing broker, regardless of the fact that the listing indicates that showings should be coordinated through the seller.

Question: If a seller accepts a contingency offer and the buyer terminates the listing on their home prior to the expiration of the contingency period, is the seller allowed to terminate the transaction?

If the contingency offer indicates that the buyer is to release the earnest money after the home inspection has been completed, does the buyer forfeit the earnest money if the transaction is terminated?

Answer: As the contingency is for the benefit of the buyer, the buyer has until its expiration to sell the property or waive the contingency. The seller cannot terminate the transaction on the basis of the buyer's cancellation of the listing on his or her other home, unless this was expressly agreed upon by the parties.

Provided that the agreement indicated the earnest money was to be both released and rendered non-refundable, it appears that the buyer may forfeit the earnest money if he or she is unable to move forward in the transaction.