

**Encumbrances** are non-possessory interests in real property.(mortgages)  
E can be financial (liens) Example : mortgage  
Non – financial : Privat restriction, easement

A creditor who has a lien against one or more pieces of the debtor's property is called a **secured creditor**.

Liens are classified as **voluntary or involuntary**.

**A voluntary lien** is one that the property owner voluntarily grants to a creditor.  
Mortgages and deeds of trust are voluntary liens.

In addition to being classified as voluntary or involuntary, liens are also classified as either **general** or **specific**.

**General** a lien created by court order, covering all of debtor's property within the county where it's recorded.

On the other hand, a **specific lien** is one that attaches only to a specific piece of property, not to everything the debtor owns.

A mortgage is an example of a specific lien.

### **Voluntary liens**

A **mortgage** lien is created by contract between the property owner and a lender. The owner is referred to as the **mortgagor**. The lender is the **mortgagee**.

The mortgage is a voluntary, specific lien.

### **Deed of trust**

### **Involuntary liens**

**A mechanic's lien** is a specific lien, attaching only to the property where the construction work was performed. (or construction lien, materialman's lien)

**Judgment lien** assigned by the court, it's a general lien

The **judgment creditor** is entitled to a lien against property belonging to the **judgment debtor**.

**Abstract of judgment** obtaining lien on the debtor property in the other county. If the judgment is not paid off, the court may order that the debtor's property be sold in order to satisfy the judgment. To do this, the court will issue a **writ of execution**.

**Attachment lien.** In a lawsuit, if the plaintiff is concerned that the defendant might try to sell any property that could be subject to a future judgment, the plaintiff can ask the court to issue a **writ of attachment**. **WA** is a court order that makes defendants' property available to satisfy judgment. (block property from sell). Valid only for 3 years, but can be renewed.

When a lawsuit that may affect title to property is pending, the plaintiff may record a **lis pendens**. A **lis pendens** is not a lien. Instead, it is a legal document that notifies anyone who purchases the affected property about the pending lawsuit.

### **Property tax liens**

**A special** assessment is a tax levied against properties that benefit from a public improvement, such as the paving of a street or the installation of sewer lines.

**IRS lien** failure to pay income taxes. General lien.

**Lien priority.** If a piece of property has more than one lien against it the proceeds are not divided up proportionately among all the lienholders. Instead, each lien is paid off in order of priority. The lienholder who will be paid first is said to have first lien position.

**Property tax liens and special assessment liens** are superior to all other liens against the property, even liens that were recorded before the tax and assessment liens attached.

**Mechanic lien** counter starts when job was begin not when lien been recorded

**The surplus** (the remainder) is paid to the foreclosed property owner.

**Homestead** is a dwelling occupied by the owner, plus the land and any outbuildings appurtenant to the dwelling. 50 k

An **easement** is a right to use someone else's land for a particular purpose. The easement to enter and exit property called **ingress and egress**