



Civil Judgments For Past Due Debts - Why Do I Care?

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When you owe money for a past due debt - a credit card, deficiency judgment, old rent, whatever - the creditor can choose to sue you. When you fail to file a timely Answer to the Complaint (in New York, that's either 20 days after you received the papers in hand or within 30 days of the filing of the Affidavit of Service, depending on how you were served) the creditor can take a judgment against you.

The judgment is a problem - a big one. In New York, the creditor can elect to restrain your bank account, withhold a portion of your paycheck, and in general make a mess of things.

But there's a hidden danger as well. The judgment changes the nature of the debt.

A judgment creates a lien on property - which means the judgment becomes what is called a "secured debt."

This lien will encumber your property and will need to be paid before you can sell your real estate (house, condo, vacant land, etc.).

In a [Chapter 13](#) bankruptcy, a judgment creditor has the right to file a secured claim. Typically, secured claims are paid in full in a [Chapter 13](#) and they are paid before unsecured creditors.

In some jurisdictions, debtors routinely file a motion in bankruptcy court to avoid the lien. This procedure varies depending on where you live.

So if you're being sued and are thinking about bankruptcy, it's wise to talk to a lawyer BEFORE the judgment is issued.

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