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## Quiet Title in a Chapter 7 Bankruptcy?

Asked over 1 year ago - Houston, TX

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I intend to file a chapter 7 bankruptcy soon, and, while under the jurisdiction of the bankruptcy court, file a Quiet Title suit in an Adversary Proceeding against my secured mortgage lender.

I will be challenging the validity of the deed of trust due to it being flawed (in my opinion), and, as a result, there are now legitimate questions as to ownership of my home. A title company has determined there is a cloud on my property and is unwilling to insure unless the cloud is cleared. I believe I can use the Declaratory Judgments Act for action to Quiet Title.

My question is this: Is this type of issue something that the bankruptcy court can/will resolve, or, is the state court the place to present this problem?

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### ATTORNEY ANSWERS (3)



**Michael J Corbin**  
Fairbault Divorce / Separation Lawyer  
Contributor level 10

1

Helpful vote

Answered about a year ago. The bankruptcy court generally will not resolve issues of title legitimacy on a property - that is a state court issue. You cannot, however, simply initiate a legal action concerning a piece of real property. During a bankruptcy proceeding, the trustee is in charge of all assets of the bankruptcy estate, your property included. You will need to consult with them before making any legal challenges to anything related to the property. The trustee may have other ideas about what is best.

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**Mitchell Paul Goldstein**  
Richmond Bankruptcy Attorney  
Contributor level 20

Answered about a year ago. Bankruptcy courts have the power to decide liens and ownership of property of the estate. However, if this is the only reason you are filing, you are better off fighting this in state court where there are no jurisdiction issues and you will be in control of the case. I strongly suggest hiring an attorney to review your case. These cases are complex.

[I am a Virginia-licensed attorney. This communication is intended as general information and not specific legal advice, and this communication does not create an attorney-client relationship.]

I hope this helps. If you think this post was helpful, please check the thumbs up (helpful) tab below. Thank you!

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**Robert Parkinson Taylor**  
Huntington Beach Chapter 7 Bankruptcy Attorney  
Contributor level 11

Answered about a year ago. Sounds like a State court question to me. Assuming your property is fully exempt (I believe Texas has an unlimited homestead exemption if you qualify), there's no reason for the trustee to be interested in the matter and thus no reason for the matter to be litigated in bankruptcy court.

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#### If my Ch 11 gets converted to Ch 7, will the adversary proceeding I filed to get quiet title be dismissed or can it continue.

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