DEPARTMENT OF HUMAN RESOURCES CHILD SUPPORT ENFORCEMENT DIVISION ADMINISTRATIVE CODE

CHAPTER 660-3-17
LIENS

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660-3-17-.01 Definitions.

(1) As used in this Chapter, the following terms shall have the following meaning:

(a) "Arrearage" – Past-due support that accrues under an order for support. The child support debt owed by the noncustodial parent to the custodial parent or to the state; a delinquency, Statutory interest that accrues on the debt is included in past-due support.

(b) "Court" – Any juvenile or family court division of the circuit or district court in the county where the mother of the child resides or is found, in the county where the father resides or is found, or in the county where the child resides or is found and, in the case of a petition seeking a divorce, or legal separation, a petition seeking a modification of support previously ordered under a divorce decree or a petition seeking a contempt citation for failure to pay support previously ordered under a divorce decree, the circuit court or the domestic relations division of the circuit court. In cases involving the enforcement of another state's order of support within this state, court may mean the courts of the county where the employer is located or is found, and may also mean the court or agency of another state or jurisdiction outside the State of Alabama whose functions include the issuance and enforcement of support order.

(c) "Department" – The Department of Human Resources of the State of Alabama, including the County Department of Human Resources.

(d) "Lien" – A legal claim on property which is a security for the payment of a debt, obligation, or duty.

(e) "Noncustodial Parent (NCP)" – A parent who does not have the child in his or her care and is responsible for paying support. The term includes an obligor.

(f) "Notice of Lien" – An official notice from the State Title IV-D agency of a judicial or administrative lien against a noncustodial parent.

(g) "Support or Support Order" - Any order, decree or judgment for support of a child, or in the case of an order being enforced pursuant to the requirements of Title IV-D of the Social Security Act, a spouse or former spouse, issued by a court of this state or a court or agency of another state or jurisdiction, whether interlocutory or final, including orders issued of any of the following purposes:

1. Current support of a minor child.

2. Current medical support which includes the cost of medical insurance of unreimbursed medical expenses.

3. Arrearage that has accrued due to unpaid child or medical support during the child's minority, including enforcement, post majority of arrearages accrued during minority and interest that has accrued or continues to accrue on that arrearage.

4. Spousal support when such spousal support is collected by the Department of Human Resources or the department's designee pursuant to the requirements of Title IV-D of the Social Security Act.

(h) "State Title IV-D Agency" - The state agency designated to administer the statewide child support program authorized under Title IV-D of the Social Security Act.

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660-3-17-.02 Types Of Liens.

(1) Real Property Liens include liens on land, buildings, homes, and generally whatever is erected, growing upon, or affixed to land.

(2) Personal Property Liens include liens on any licensed property such as cars, boats, motorcycles, and all unlicensed movable

property such as stocks, bonds, bank accounts, livestock, jewelry, cash, unemployment compensation settlements, worker's compensation settlements, insurance settlements, and lottery winnings.
Author: Janice Grubbs
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660-3-17-.03 Criteria For Filing A Lien Administratively.

For a case to qualify for filing a lien administratively, it must meet the following criteria:

(1) The balance of the noncustodial parent's total child support arrearage from all cases, including interest, is at least $1,000.00.

(2) The noncustodial parent's total arrearage from all cases, including interest, must be equal to at least three months current support obligation due under each case.

(3) In the case of a lien against personal property such as a financial account, the balance of the noncustodial parent's financial account(s) must be at least $5,000.00 as of the date of the financial institution data match.

(4) The noncustodial parent has or is likely to acquire property that can be attached.

(5) The noncustodial parent is not in bankruptcy.

(6) The noncustodial parent is not a SSI recipient.

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660-3-17-.04 Implementation Of An Administrative Lien.

The State Title IV-D agency is authorized to file a notice of lien against the real and personal property of any noncustodial parent who resides or owns property in the state and owes past-due child support. Upon the filing a Notice of Lien, a lien arises by operation of law.

(1) For personal property not subject to a certificate of title, a Notice of Lien shall be sent by the State Title IV-D agency through electronic transmission to the office of the Secretary of State.

(a) A digital signature on the Notice of Lien shall authorize the filing of the lien.

(b) The lien shall be perpetual in nature.

(c) A lien is created on all personal property not subject to a certificate of title that the noncustodial parent holds and/or may obtain in the future.

(2) For personal property subject to a certificate of title, a lien must be filed in the office of the Department of Revenue using forms required by that agency.

(a) The Motor Vehicle Division of the Department of Revenue processes liens against property of this type.

(b) An application for Certificate of Title to Record a Lien must be completed and submitted along with the surrendered title to the vehicle.

(3) For real property, a Notice of Lien is filed in the office of the judge of probate where the real property is located.

(a) A blanket lien is created on real property the noncustodial parent holds and/or may obtain in the future in that county.

(b) The state Title IV-D agency shall not be required to obtain a judgment for an amount certain prior to filing for the enforcement of a lien.

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660-3-17-.05 Execution Of A Lien.

When the State Title IV-D agency seeks to enforce a lien or a judicial order, notice shall not be required. The state shall accord full faith and credit to liens arising from another state's judicial or administrative action.

(1) Upon acknowledgment from the Secretary of State that a lien has been filed administratively on personal property, the state IV-D agency sends:

(a) An Obligor Notice of Lien to the noncustodial parent informing him/her that a lien has arisen by operation of law on any personal property belonging to him/her or acquired after the lien arises.

(b) A Request for Administrative Review form to the noncustodial parent that may be used to request a desk review of the action taken within fifteen (15) days of the date of the notice of lien.

(c) A Notice of Attachment to the holder of the assets requesting a freeze be placed on the noncustodial parent's assets for twenty-one (21) days and to surrender the amount named in the document after that period of time.

(2) For a case to qualify for issuing an attachment, it must meet the following criteria:

(a) The balance of the noncustodial parent's arrearages from all cases, including interest, must be at least $1,000.00.

(b) The noncustodial parent's total arrearages from all cases, including interest, must be equal to at least three months current support obligation due under each case.

(c) The value of the noncustodial parent's assets to be levied must be at least $5,000.00.

(d) The noncustodial parent has or may acquire property that can be attached.

(e) The noncustodial parent must not be involved in bankruptcy proceedings.

(f) The noncustodial parent is not a SSI recipient.

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660-3-17-.06 Releasing A Lien.

A lien must be released by filing a release executed by the State Title IV-D agency in the appropriate agency where the lien has been filed.

(1) Reasons for releasing a lien are:

(a) The child support debt is paid in full.

(b) The Notice of Lien was filed in error.

(c) The noncustodial parent has filed bankruptcy.

(d) The noncustodial parent is a SSI recipient

(e) Documents (i.e. bank documents, etc.) indicate the noncustodial parent's name on the financial account being seized is strictly for fiduciary purposes, for example, the management of the funds of an elderly parent or minor child.

(f) The financial account contains SSI money received by another joint account holder or individual who is a SSI recipient.

(g) The noncustodial parent or another joint account holder or individual is a former SSI recipient and SSI funds were deposited into the financial account,

(h) The financial account is classified as a business account.

(i) The financial account is a joint account and the funds do not belong to the noncustodial parent

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660-3-17-.07 Right To Contest An Administrative Lien.

The noncustodial parent has a right to an administrative review of the action taken to implement a lien against his/her assets. The request for review must be in writing within fifteen (15) calendar days of the date appearing on the Notice of Lien. The Obligor Notice of Lien instructs the noncustodial parent to mail the written request to the State Title IV-D agency.

(1) Reasons for contesting the lien:

(a) Mistake of fact.

(b) The child support debt is paid in full.

(c) (S)He is receiving SSI or there is SSI money in the financial account(s).

(d) (S)He does not meet the qualifications for the lien.

(e) (S)He is involved in bankruptcy proceedings.

(f) S(He) is strictly on the financial account for fiduciary purposes, for example the management of the funds of an elderly parent or minor child.

(g) The financial account contains SSI money received by another joint account holder or individual who is a SSI recipient.

(h) S(He) or another joint account holder or individual is a former SSI recipient and SSI funds were deposited into the financial account.

(i) The financial account is classified as a business account.

(j) The financial account is a joint account and the funds do not belong to him/her.

(2) The noncustodial parent must provide proof, such as copies of:

(a) Canceled checks or money orders.

(b) Child Support orders or modifications to them.

(c) Pay stubs that show child support withheld.

(d) Letters from employers who have withheld wages.

(e) Receipts for child support payments.

(f) Court records documenting payment of child support.

(g) Picture ID and Social Security Card to prove mistaken identity.

(h) Documents showing that the levied funds from a financial account do not belong to him/her (i.e. bank documents, etc.).

(i) Any other applicable documents.

(3) A desk review will be conducted by the State Title IV-D agency within 30 days of receiving the request for an administrative review.

(4) If the issue cannot be resolved in an administrative desk review, the noncustodial parent has the right to request an administrative hearing. The noncustodial parent is advised in the Results of Administrative Review document that the State Title IV-D agency must receive a written request for an

administrative hearing within thirty (30) days of the date on the document or the money will distribute as child support.

(a) An administrative hearing will be conducted by the State Title IV-D agency within 90 days of receiving the written request.

(b) If the noncustodial parent does not agree with the findings of the administrative hearing, (s)he has the right to request a judicial review by filing a notice of appeal, cost bond, and petition for review as required under the Alabama Administrative Procedure Act. The noncustodial parent is advised in the results of administrative hearing document that the State Title IV-D agency must receive notice of the court action within thirty (30) days of the date on the document, or the money will distribute as child support.

Author: Clifford Smith
Statutory Authority: P.L. 104-193; Code of Ala. 1975, §30-3-198.
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