

Notice of Rulemaking

Tennessee Department of Human Services

Child Support Division

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to T.C.A. §§ 4-5-201 et seq. and 36-5-912. The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place at the following locations: Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Monday, May 16, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Tuesday, May 17, 2005; and Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Wednesday, May 18, 2005.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Fran McKinney, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5563 (TTY)- (800) 270-1349.

For a copy of this notice of rulemaking hearing, contact: Kim Beals, Assistant General Counsel, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

Substance of Proposed Rules
of
The Tennessee Department of Human Services

Child Support Division

Chapter 1240-2-5

Liens for Child Support

Amendments

Rule 1240-2-5-.16, Child Support Lien Notice and Instructions, is amended by deleting paragraph (3) in its entirety.

Authority: T.C.A. §§ 4-5-202; 36-5-901, et seq.; 36-5-912, 42 U.S.C. §§ 652, 654(9)(E) and 666; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 01-06, April 4, 2001, and Action Transmittal 05-04, January 4, 2005.

Rule 1240-2-5-.16, Child Support Lien Notice and Instructions, is amended by deleting subparagraph (a) of paragraph (1) in its entirety and by substituting instead the following language so that, as amended, subparagraph (a) shall read as follows:

- (a) The Department or its contractors in the Title IV-D program may use the form in paragraph (2) as necessary to give notice of the existence of the lien in intrastate cases, or, in interstate cases as provided by Federal law. Following the form are instructions for its use.

Authority: T.C.A. §§ 4-5-202; 36-5-901, et seq.; 36-5-912, 42 U.S.C. §§ 652, 654(9)(E) and 666; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 01-06, April 4, 2001, and Action Transmittal 05-04, January 4, 2005.

Rule 1240-2-5-.16, Child Support Lien Notice and Instructions, is amended by deleting paragraph (2) in its entirety and by substituting instead the following:



STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES

Fax

Type Name here
Address
City, State Zip

NOTICE OF LIEN

OBLIGOR:

OBLIGEE:

IV-D CASE #:

This lien results from a child support order, entered on __ / __ / __ by _____ in _____ County, TN, Tribunal Number _____.

As of __ / __ / __, the obligor owes unpaid support in the amount of \$ _____. This judgment may be subject to interest.

Prospective amounts of child support, not paid when due, are judgments that are added to the lien amount. This lien attaches to all non-exempt real and/or personal property of the above-named obligor which is located or existing within the State/county of filing, including any property specifically described below.

Specific description of property:

All aspects of this lien, including its priority and enforcement, are governed by the law of the State where the property is located. An obligor must follow the laws and procedures of the State where the property is located or recorded. An obligor may also contact the entity sending the lien. This lien remains in effect until released or withdrawn by the obligee or in accordance with the laws of the State where the property is located.

Note to Lien Recorder: Please provide the sender with a copy of the filed lien, containing the recording information, at the address provided above.

Check either "A" or "B" below. The option that does not apply may be omitted from the form. If "B" is checked, the form must be notarized.

A. Submitted by a IV-D agency/office on behalf of the named obligee
As an authorized agent of a State or Tribal, or subdivision of a State or Tribal, agency responsible for implementing the child support enforcement program set forth in Title IV, Part D, of the Federal Social Security Act (42 U.S.C. 651 et seq.), I have authority to file this child support lien in any State, or U.S. Territory. For additional information regarding this lien, including the pay-off amount, please contact the authorized agency and reference its case number, both listed above.

Date

Authorized Agent

Print name, e-mail address, phone and fax number

B. Submitted by an obligee or a private (non-IV-D) attorney or entity on behalf of an obligee.

I am:

the obligee of the above referenced order [or]

an attorney or entity representing the above named obligee.

I certify, under penalty of perjury, that the information contained in this notice is true and accurate and that this lien is submitted in accordance with the laws of the State of Tennessee. For additional information regarding this lien, including the pay-off amount, please contact the obligee listed above.

Date

Signature

Print name, e-mail address, phone and fax number

Notary State: _____

County: _____

I certify that _____ appeared before me and is known to me as the individual who signed the above.

Date: _____

Notary Public

My appointment expires _____

Notice: Respondents are not required to respond to this information collection unless it displays a valid OMB control number. The average burden for responding to this information collection is estimated at 30 minutes. If you believe this estimate is inaccurate, or if you have ideas to reduce this burden, please provide comment to the issuing agency.

OMB Control #: 0970-0153 Expiration Date: 01/31/2008

Instructions for the Notice of Lien

Purpose of This Form: 42 USC 654(9)(E) requires all IV-D programs to use the Notice of Lien form in interstate cases. IV-D programs may also use the form to impose liens in intrastate cases. This form may also be used for non-IV-D orders by an obligee or his or her private attorney. This form may be used to assert liens on assets discovered through the Financial Institution Data Match process. Please note that the expiration date on this form is the Office of Management and Budget expiration date, not the expiration date of the lien itself.

Whose Laws Apply?: All aspects of this lien, including its priority and enforcement, are governed by the law of the State where the property is located. Issue the lien to secure debts for past-due support upon identifying, in another State, nonexempt real or personal property belonging to the obligor. The laws and procedures of the State where the property is located or recorded determine which office or entity in that State is the appropriate one to receive the lien for filing. It is the responsibility of the agency/office or private attorney issuing the lien to file it with the appropriate entity.

Release of Lien: To release a previously-filed lien (e.g., upon receipt of full payment, or partial payment with an acceptable agreement to repay remaining balance, etc.) the original issuing State shall use its existing local release of lien form. A copy of the release of lien should be provided to the obligor. Identify the lien to be released by including the recording information provided by the office or entity that filed the lien (Lien Recorder). The laws and procedures of the State where the lien is filed control the release of the lien.

To complete this form:

1. At the top of the form, place the name, address, and fax number of the recorder (i.e., County Auditor, Clerk of Court, DMV, etc.) or asset holder (i.e., Financial Institution, Estate Executor, Trustee, etc.) to which you are sending the lien.

NOTE: The procedures of the State where the property is located determine which person or entity in that State is the appropriate one to receive the lien for filing. It is the responsibility of the person/entity/agency submitting the lien to file/serve it correctly.

2. In the "OBLIGOR" field place the obligor's full name, address, date of birth (if known) and social security number (if known). Include known aliases or multiple social security numbers used by the obligor.
3. In the "OBLIGEE" field insert the obligee's full name. Note that the obligee may be the individual obligee, a public IV-D agency, or a private attorney, person or entity with a proper assignment from the individual obligee.
4. In the "IV-D Case #" field, enter the number/identifier identical to the one submitted on the Federal Case Registry, which is a left-justified 15-character alphanumeric field, allowing all characters except asterisk and backslash, and with all characters in uppercase.
5. In the space following "entered on", insert the date of entry of the order that is the basis for the lien.
6. In the space following "by", identify the tribunal that issued the support order that is being used to determine the amount of the lien. A tribunal is a court, administrative agency, or quasi-judicial entity that has the authority to establish, enforce, and modify child support obligations.
7. In the space following "in", identify the location (State/county) of the tribunal that issued the support order that is being used to determine the amount of the lien.
8. In the space following "tribunal number", identify the tribunal docket, jacket or file number of the support order that is used to determine the amount of the lien.
9. In the space following "As of", insert the date of the debt calculation that is used in determining the amount of the lien.
10. In the space following "amount of \$", insert the lien amount (the amount of the past-due support obligation owed when the lien is prepared). Interest may be included in the lien amount if permitted under the law of the State where the lien is filed.
11. In the space following "Specific description of property", identify any specific property that you want the lien to attach to. Use the legal description of real property and, when the target of the lien is personal property, always provide the most specific identifying information available, including the location of the property, if known. (For example, include the make/model/year/appropriate registration numbers (if known), as opposed to referring to such personal property as "farm equipment"). For Financial Institutions, list the account numbers.
12. Check "A" if the lien is submitted by a IV-D agency and check "B" if the lien is submitted by an obligee or his or her private attorney.
13. Provide the date the lien is signed on the line provided above "date".
14. If "A" is checked, the appropriate individual should sign the lien on the line above "Authorized Agent". Type or print the name of the agent signing the lien below their signature. Include the agent's name, e-mail address (if available) and phone and fax numbers. If "A" is checked, the form does not need to be notarized. Note that, in IV-D cases, the pay-off amount will be available only from the IV-D agency.
15. If "B" is checked, the appropriate individual should sign the lien on the line above the two check boxes and should check the appropriate box. Type or print the name of the person signing the lien below their signature. Include the person's name, e-mail address (if available) and phone and fax numbers.
16. If "B" is checked, the signature of the party signing the lien must be notarized.
17. In the spaces following "Notary State" and "County", insert the name of the State and County (if applicable) where the notary is commissioned.
18. Send a copy of the lien to the obligor at his/her last known address.

Authority: T.C.A. §§ 4-5-202; 36-5-901, et seq.; 36-5-912, 42 U.S.C. §§ 652, 654(9)(E) and 666; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 01-06, April 4, 2001, and Action Transmittal 05-04, January 4, 2005.

Legal Contact or Party who will approve final copy:

Kim Beals
Assistant General Counsel
Citizens Plaza Building, 15th Floor
400 Deaderick Street
Nashville, Tennessee 37248-0006
(615) 313-4731

Contact for disk acquisition:

Darryl Wells
Legal Assistant
Citizens Plaza Building, 15th Floor
400 Deaderick Street
Nashville, Tennessee 37248-0006
(615) 313-4731

I certify that this is an accurate and complete representation of the intent and scope or rulemaking proposed by the Tennessee Department of Human Services.

Kim Beals

Kim Beals
Assistant General Counsel
Tennessee Department of Human Services

Subscribed and sworn to before me this the 31st day of March, 2005.

[Signature]
Notary Public

My Commission Expires

My Commission expires on the ___ day of August 20, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31 day of March, 2005.

Riley Darnell

Riley Darnell
Secretary of State

By: *[Signature]*

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