

LIENS FOR PAST DUE SUPPORT



How Property May Be Used to Pay Past Due Child or Spousal Support

State Court Administrative Office
Friend of the Court Bureau
Michigan Supreme Court
<http://courts.mi.gov/administration/scao/OfficesPrograms/FOC>

WHAT IS A LIEN?

Michigan law allows the friend of the court (FOC) office to place a lien against the property of a person who owes child support.

A lien is a person's interest in another person's property to guarantee that the property owner repays a debt. The lien can prevent the person from selling his or her property and taking the money without paying back the debt.

Lien information is recorded with a state or local agency to make sure that the lien can be used to pay the debt.

The Q&A sections below explain how liens enforce court orders that require a person to pay support for a child or former spouse.

1) How does a lien force someone to pay court-ordered support?

The lien makes it difficult to transfer the property; it stays attached to the property even after a transfer. Anyone who transfers or receives property that has a lien may be required to pay the lienholder the amount of the lien.

When someone else is holding the property for its owner, like a bank, a lien may prevent the owner from using the property. With a court's approval, a lienholder may sell the property and collect the amount owed from the sale.

2) What kinds of property can a lien affect?

A lien can affect most types of property, including both land and personal property, such as cars, motorcycles, boats, snowmobiles, livestock, furniture, trusts, stocks, and bonds. Certain types of personal property have special rules making it more difficult to get and enforce a lien. For those assets, the court can use other legal procedures to make part of the money available to pay past-due support.

3) Can the child support program place a lien on my bank account?

Yes. Money in a bank account or money from an insurance claim may have a lien placed, if the payer is two months or more behind in support payments. Bank accounts and insurance claims are not handled by the FOC offices, but its partner, the Office of Child Support (OCS), uses Financial Institution Data Match and the Insurance Claims Data Match to match information on payers who owe past due support amounts.

4) When can I get a lien for past-due child or spousal support payments?

Anytime a person fails to pay support on time, the past-due amount automatically becomes a lien. However, the FOC office will actually "perfect" and enforce the lien only under certain conditions, such as child support account has been past due for two or more months.

5) What does it mean to “perfect” a lien?

To “perfect” a lien means that the FOC notifies the property owner that the property is subject to a lien and records the lien at the appropriate property office. The type of property will determine how the FOC office perfects a lien.

6) What information does the friend of the court office need to perfect a lien?

Before an FOC office can perfect a lien, it must have enough information to identify the property. For real estate, the office must know the county where the property is located and, if possible, the address or legal description of the land. For cars, motorcycles, recreational vehicles, and boats, the FOC must know the year and make of the vehicle and, if possible, the Vehicle Identification Number (VIN) or license plate number.

7) Does the FOC have to put a lien on my property if I fail to pay my support on time?

The FOC is not required to perfect or enforce a lien. For example, the FOC may determine that the value of the property is too small to make the process worthwhile. On the other hand, the FOC may conclude that other, simpler methods will collect the past-due support in a reasonable amount of time.

8) Does a lien guarantee that past-due support will be paid?

No. To convert the lien into cash requires additional procedures, including selling the property at a court-ordered sale. The FOC may determine that those actions are too costly compared to the amount of past-due support or the value of the property.

9) How do I request a review of a lien?

As soon as an FOC office perfects a lien, it must give the support payer an opportunity to object to the lien’s validity within the next 21 days. If an objection is filed, the court will hold a hearing. A lien can only be reviewed by the court if there is a mistake as to the amount due, or a mistake in identity; the person at court does not have the alleged child support past-due amount.

10) How do I remove a lien?

The FOC will remove a lien when the property owner pays all past-due support or when a court orders the lien removed. The FOC also will remove the lien if the payer does not own the property, or if the support payments were less than two months past due when the FOC mailed the lien notice to the payer.

11) How does the FOC use a lien to collect money to pay the past-due support?

First, the FOC office must notify the support payer that it intends to use the lien by taking money from the payer’s bank or selling other property. A lien on property requires the FOC to get a court order before the property can be taken. The FOC cannot take more money or valued property than what the payer owes on the support obligation. The FOC must return any extra money to the support payer.

12) How do I prevent the FOC from placing a lien on my property?

Even though the law automatically creates a lien when support payments are more than two months past due, the FOC is not required to take further steps to perfect a lien. If you expect to fall more than two months behind in making your support payments, you should contact your FOC office and discuss a plan to repay the past-due support or to change your support. Forms to change support are available online at

<http://courts.mi.gov/Administration/SCAO/Forms/Pages/Domestic-Relations.aspx>.

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