

North Dakota Child Support Enforcement to Implement On-Line Lien Registry

Under state law, the Child Support Enforcement Division of the North Dakota Department of Human Services must implement a child support Lien Registry. The implementation date is March 1, 2012. The Lien Registry is under development and, as information about the Lien Registry is developed, it will appear on Child Support Enforcement's Web site, which is found at www.childsupportnd.com.

The Lien Registry is a list of obligors who owe past-due child support that is being enforced by Child Support Enforcement. When an obligor is listed on the Lien Registry, a child support lien is automatically created against some of that obligor's real property and against his or her titled personal property, regardless of the county in which the property is located.

The Lien Registry will be available to be searched by lenders who are considering doing business with an individual who may owe past-due support. It will also be available to be searched by persons who are involved in a real estate transaction with an individual whose ability to transfer real property may be affected by a lien. In addition, since the Lien Registry is a public site, it may be searched by anyone at any time.

The Lien Registry law is found at N.D.C.C. § 35-34-02.1:

35-34-02.1. (Effective after December 31, 2011) Child support lien registry.

The child support agency shall create a child support lien registry using an interactive website. The registry shall include a listing of any obligor who owes past-due support that is being enforced by the child support enforcement agency, the obligor's date of birth, and the amount of past-due support that is being enforced by the child support enforcement agency. The lien registry website must be available to the public and support a search by last name of the obligor and other information provided by the person using the website. Any real or titled personal property, except the homestead or other property that is exempt under section 28-22-02, of an obligor who is listed on the lien registry or which the obligor thereafter acquires in this state is subject to a lien. A lien under this section is perfected as of the date the lien is first listed on the child support lien registry, but is not effective against a good-faith purchaser of titled personal property unless the lien is recorded on that title. The child support agency must subordinate its lien under this section upon request of a third party if:

1. The request is accompanied by documentation from the lien registry website showing the child support lien balance as of the date the third party perfected its interest in the property, to the extent that the current balance of the child support lien exceeds the balance when the third party perfected its interest; or
2. The request is made within ninety days of the date the lien is first listed on the child support lien registry and the third party proves that it attempted to

perfect an interest in the property prior to the creation of the child support lien.

Although the Lien Registry is authorized by state law effective January 1, 2012, no liens will be claimed under the Lien Registry from January 1, 2012, through February 29, 2012.

Only obligors whose past-due support is being enforced by Child Support Enforcement will appear on the Lien Registry. A significant number of child support cases in North Dakota are not enforced by Child Support Enforcement and the obligors in these cases will not appear on the Lien Registry, no matter how much past-due support they owe.

Many of the obligors who will be listed on the Lien Registry are actually making regular payments to reduce their past-due support. Even so, if these obligors owe **any** amount of past-due support, they will appear on the Lien Registry.

In general, for an obligor who is listed on the Lien Registry, any real property or titled personal property (for example, vehicles) that the obligor has or later acquires in North Dakota is subject to a child support lien. The lien record on the Lien Registry does not identify a specific piece of property to which a lien applies. The obligor's homestead or other property that is absolutely exempt under state law is not subject to a child support lien. Regarding titled personal property, a child support lien is not effective against a good faith purchaser unless the lien is recorded on the title.

A child support lien is generally effective on the date the obligor is first listed on the Lien Registry. However, under state law, liens on titled personal property that exist when the Lien Registry is implemented will be "grandfathered in" to the Lien Registry and will retain their earlier effective date and priority. Although that earlier effective date will not appear on the Lien Registry, the lien record will include a notation to indicate that a prior lien exists.

Some obligors who will appear on the Lien Registry might also have prior docketed child support judgments against them. These docketed judgments created liens on certain real property of these obligors. The docketed judgment amount might be included in the "child support arrears" amount on the lien record but the docketed judgment date will not be shown.

The Lien Registry is updated weekly using information from Child Support Enforcement's automated system. Through these updates, new obligors may be added, other obligors may be removed, and the lien amounts will be updated if necessary. (The lien amounts will change as ongoing child support obligations become due or as payments are received.)

In certain situations, to protect the interests of third parties who also are trying to perfect an interest in property of the obligor, Child Support Enforcement will be required to subordinate its lien to the third party upon request. Refer to N.D.C.C. § 35-34-02.1.

Child support liens do not expire. An obligor will only be removed from the Lien Registry when all his or her past-due support that is being enforced by Child Support Enforcement is paid in full or when Child Support Enforcement is no longer enforcing the obligor's case.

For more information about the Lien Registry, contact Paulette Oberst, Policy Administrator for Child Support Enforcement at (701) 328-3582.