

LIENS FOR PAST DUE SUPPORT



**A Guide to How a Payer's Property May Be Used to
Obtain Payment of Past Due Child or Spousal Support**

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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 one person's interest in another person's property. Liens come into play when you owe debt. The reason for a lien is to guarantee that the property owner repays the debt. The lien can prevent the person from selling his or her property and taking the money without paying back the debt.

Liens can be voluntarily or without the property owner's agreement, such as in a legal judgment. When a lien is placed on a person's property, the 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 can be used to 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 for a property owner 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 lien-holder 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 lien-holder may force a sale of 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, bank accounts, 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) 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 against the person's real estate and personal property. However, the FOC office will actually "perfect" and enforce the lien only under certain conditions.

4) What does it mean to "perfect" a lien?

To "perfect" a lien means that formal notice has been given to the property owner that the property is subject to a lien. The public will also receive notice when the lien is recorded at the appropriate property office.

The type of property will determine what steps the FOC office must take to perfect a lien. For money held by a bank, the FOC must send written notice to the payer of support and to the bank. For other types of property, the FOC will send notice to the agency that registers titles and liens for that type of property.

5) 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 in which 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.

6) 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. Or, the FOC may conclude that other, simpler enforcement methods will collect the arrearage (money owed that should have been paid earlier) in a reasonable amount of time.

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

No. To convert the lien into cash requires additional procedures, including the property being sold 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.

8) How do I remove a lien?

The FOC will remove a lien when the property owner pays all past-due support. 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. The FOC 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.

9) 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 by selling other property with a lien. Both require the FOC to get a court order and help from other law enforcement agencies. The FOC cannot take more than what the payer owes on the support obligation. The FOC must return any extra money it may have received to the support payer.

10) How do I prevent the FOC from placing a lien on my property or bank account?

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>.

Friend of the Court Bureau/ State Court Administrative Office

Michigan Supreme Court

<http://courts.mi.gov/administration/scao>
