

137-055-4440

Liens Against Personal and Real Property

(1) A judgment for support constitutes a lien on real and personal property as provided for in Oregon law.

(2) Whenever there is a judgment for unpaid support and the administrator learns that an obligor has assets, then the administrator may cause a lien to be recorded on any real or personal property owned by the obligor unless the property is exempt from lien laws under Oregon law.

(3) An obligee from another state with a judgment for unpaid support may record a lien under the provisions of ORS 18.158, and must use the form provided by the Office of Child Support Enforcement of the United States Department of Health and Human Services.

(4) Pursuant to OAR 137-055-4300(3), the administrator may use the process described in this rule as one of several enforcement options available and may exercise discretion to optimize collection potential in individual cases. The administrator will prioritize this enforcement option in decision making based on availability and application of other enforcement options and available staff resources. Prior to forcing a sale of real or personal property, the administrator must consider the following factors:

(a) The market value of the property after subtracting the value of superior claims of senior lien holders;

(b) The market conditions for achieving maximum return;

(c) The long-term impact on the obligor's ability to comply with an unsatisfied or future support duty;

(d) The storage costs, notice and sale costs;

(e) Exemption claims;

(f) Co-ownership of the property, or impact on any existing trust on the property; and

(g) The availability of other, more effective remedies to satisfy the support debt.

(5) The administrator may not proceed with this enforcement option when a court of appropriate jurisdiction has ordered that the obligor be exempted from referral. The obligor must notify the obligee and the administrator when filing a claim for an exemption with a court.

Stat. Auth.: ORS 180.345; 18.150

Stats. Implemented: ORS 18.158, 25.670 and 25.690

Effective: January 3, 2012