

January 14, 1994

Representative Michael K. Simpson
Speaker of the House
STATEHOUSE MAIL
Boise, Idaho 83720

**THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE**

Re: Duration of Judgment Lien for Child Support

Dear Mr. Speaker:

The following is in response to your request for legal guidance relating to the enforcement of judgment liens against real property arising from spousal maintenance and child support judgments.

The issue is the duration of a lien based on a judgment for child support. It is the conclusion of this office that, pursuant to Idaho Code § 10-1110, a judgment for child support continues as a lien for five years from the date of judgment.

Idaho Code § 10-1110 sets forth the procedures for obtaining a lien against real property. That section provides in part:

A transcript or abstract of any judgment or decree of any court of this state or any court of the United States the enforcement of which has not been stayed as provided by law, if rendered within this state, certified by the clerk having custody thereof, may be recorded with the recorder of any county of this state, who shall immediately record and docket the same as by law provided, and from the time of such recording, and not before, the judgment so recorded becomes a lien upon all real property of the judgment debtor in the county, not exempt from execution, owned by him at the time or acquired afterwards at any time prior to the expiration of the lien; provided that where a transcript or abstract is recorded of any judgment or decree of divorce or separate maintenance making provision for installment or periodic payment of sums for maintenance of children or alimony or allowance for wife's support, such judgment or decree shall be a lien only in an amount for payments so provided, delinquent or not made when due.

It is clear from the language of the statute itself that the legislature intended this statute to apply to judgments for child support. Next, the statute provides:

The lien continues five (5) years from the date of the judgment, unless the judgment be previously satisfied, or unless the enforcement of the judgment be stayed upon an appeal as provided by law.

It is equally clear from this provision that all liens, including those resulting from the recording of a judgment for child support, expire five years from the date of the judgment, unless the judgment is renewed pursuant to Idaho Code § 10-1111. That section states:

10-1111. Renewal of judgment--Lien.--Unless the judgment has been satisfied, at any time prior to the expiration of the lien created by section 10-1110, Idaho Code, or any renewal thereof, the court which entered the judgment may, upon motion, renew such judgment. The renewed judgment may be recorded in the same manner as the original judgment, and the lien established thereby shall continue for five (5) years from the date of judgment.

This section contemplates a two-step process in order to renew a lien. First, the judgment creditor must motion the court which entered the judgment to renew the judgment. Second, the judgment creditor must record the renewed judgment in the county where the real property is located. The judgment must be renewed within five (5) years of the judgment. The lien established as a result of this process continues for five (5) years from the date of the renewed judgment.

Please feel free to contact me if you wish further guidance on this issue.

Sincerely,

MARGARET C. LAWLESS
Deputy Attorney General