

205.745 Child support lien or levy in favor of cabinet -- Filing of notice -- Foreclosure actions -- Immobilization of vehicles of child support obligors.

- (1) A child support lien or levy in favor of the cabinet shall be enforceable against all real and personal property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the cabinet. In accordance with subsection (4) of this section, the lien or levy shall have first priority over any other lien assigned by any other agency, association, or corporation.
- (2) The cabinet shall file a notice of lien or levy with the county clerk of any county or counties in which the obligor has interest in property and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the cabinet shall disclose the specific amount of liability to any interested party legally entitled to the information. The notice, when so filed, shall be conclusive to all persons of the lien or levy on the property having legal situs in that county. The lien or levy shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien or levy shall attach to all interest in real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee pursuant to KRS Chapter 64.
- (3) The cabinet may force the sale of the property of the parent subject to the lien or levy for the payment of assigned child support, and distribute the proceeds in accordance with 42 U.S.C. secs. 651 et seq.
- (4) The cabinet's lien or levy shall be superior to any mortgage or encumbrance created after the notice of lien or levy is recorded. The cabinet shall give full faith and credit to child support liens or levies created in other states without requirement of judicial notice or proceedings prior to enforcement, but the liens or levies shall subordinate to any child support lien or levy of the cabinet that relates to the same obligor and property.
- (5) The cabinet shall not enforce the lien by foreclosure action on a principal residence of an obligor if to do so would deprive a minor child of the obligor of a homestead, unless the failure to enforce the lien by foreclosure would result in the loss of the home of the minor child of the custodial parent.
- (6) In the event another lienholder initiates a foreclosure action against the property of the obligor, the cabinet may protect its interest in the property by filing an answer counterclaim and cross-claim and participate in the proceeds of any sale of the property as its interests may appear.
- (7) The cabinet shall notify the obligor of the filing of its claim of lien or levy and the opportunity to contest and appeal the action in accordance with the requirements of KRS Chapter 13B.
- (8) Liens or levies resulting from actions provided by this section shall be inapplicable

to an account maintained at a financial institution that is or may be subject to the data match system established by KRS 205.774, and is subordinate to any prior lien, levy, or security interest perfected by a financial institution or other legitimate lien or levy holder.

- (9) The cabinet may, after application to and approval of the Circuit Court, enforce the lien by the immobilization with vehicle boots of a vehicle registered in the obligor's name. The cabinet shall establish procedures for vehicle booting by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. The procedures shall require that the following conditions are verified before a vehicle is immobilized with a vehicle boot:
- (a) There is an arrearage that equals or exceeds six (6) months without payment;
 - (b) The obligor has failed, after receiving appropriate notice, to comply with subpoenas or warrants relating to child support proceedings;
 - (c) A lien has been filed in the county where the vehicle is kept;
 - (d) The Department of Vehicle Regulation shows that the vehicle identification number for the vehicle to be booted is registered in the obligor's name;
 - (e) The vehicle to be booted is solely owned by the obligor, co-owned by the obligor and current spouse, or owned by a business in which the obligor is the sole proprietor;
 - (f) A notice of intent has been sent to the obligor, unless there is reason to believe that the obligor will leave town or hide the vehicle;
 - (g) The obligor does not contact the cabinet within ten (10) days of notice to negotiate a settlement; and
 - (h) A target date is set for booting.

The administrative regulations shall also require that the cabinet send a cancellation notice to the obligor and the sheriff if a decision is made to terminate the booting of a vehicle. Once a vehicle has been booted, the cabinet shall attempt to reach a payment agreement with the obligor including terms for the release of the vehicle. If an agreement is not reached with the obligor, the cabinet may proceed with the sale of the vehicle. If the cabinet sells a vehicle, the cabinet shall notify the Department of Vehicle Regulation to issue clear title to the new owner of the vehicle.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 430, sec. 6, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 255, sec. 10, effective July 15, 1998; and ch. 426, sec. 221, effective July 15, 1998. -- Amended 1990 Ky. Acts ch. 418, sec. 13, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 411, sec. 8, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 487, sec. 4, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 379, sec. 2, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 384, sec. 342, effective June 17, 1978. -- Created 1974 Ky. Acts ch. 343, sec. 9.

Legislative Research Commission Note (7/15/98). This section was amended by 1998 Ky. Acts chs. 255 and 426 which are in conflict. Under KRS 7.136(3), Acts ch. 255, which was a nonrevisory Act, prevails.