

23-3122. Lien upon vehicles, vessels, aircraft. (a) Whenever there is an arrearage in payment of an order of support in an amount equal to or greater than the amount of support payable for one month, a lien shall arise by operation of law upon certain personal property of the obligor. The lien may be perfected as follows:

(1) In the case of a vehicle, the secretary may perfect a lien on the vehicle by filing a notice of lien with the division of vehicles of the department of revenue. The perfection of the lien shall not be in effect until the notation of the lien is actually placed upon the certificate of title for the vehicle. The notice shall be in a form prescribed by the division, or on a federal form as required by title IV-D, and shall contain a description of the vehicle, the name and address of the obligee or secretary, the name and last known address of the obligor and any other information required by the division. The notice shall state the amount of the arrearage and that the arrearage is equal to or greater than the amount of support payable for one month. A copy of the notice of lien shall be sent by first-class mail to the obligor at the obligor's last known address.

Upon the filing of the notice of lien in accordance with this subsection (a)(1) and payment to the division of a fee of \$5, the division shall be authorized to demand in writing the surrender of the title certificate from the owner of the vehicle for the purpose of recording the lien on the title certificate. Once the lien is properly recorded and perfected by actually noting it on the certificate of title, a transfer of title is not valid unless the lien has been released in the manner provided by K.S.A. 8-135, and amendments thereto, or the transfer has been consented to in writing by the lienholder. If the obligor fails to surrender the title certificate within 15 days after the written demand by the division of vehicles, the division shall notify the obligee seeking to perfect the lien. The obligee may obtain an order of the court which issued the support order requiring the obligor to surrender the title certificate so that the lien may be properly recorded. Notwithstanding any provision of this section authorizing a lien on a vehicle of an obligor, no lien shall attach to any vehicle which the obligor has transferred to another person who has purchased the vehicle or accepted it by trade in exchange for other property or services in good faith, for value, prior to the time that the lien on the vehicle has been noted and perfected in the manner provided by this subsection (a)(1).

(2) In the case of a vessel or aircraft, the obligee may perfect a lien on the vessel or aircraft by filing a notice of lien with the office where filing is required by K.S.A. 84-9-401, and amendments thereto, to perfect a security interest in the vessel or aircraft. The perfection of the lien shall not be in effect until the notation of the lien is actually placed upon the appropriate documentation of title for the vessel or aircraft. The notice shall contain a description of the make, model designation and serial number of the vessel or aircraft, including its identification or registration number, if any; the name and address of the obligee; and the name and last known address of the obligor. The notice shall state the arrearage and that the arrearage is equal to or greater than the amount of support payable for one month. A copy of the notice of lien shall be sent simultaneously by first-class mail to the obligor at the obligor's last known address.

Upon the filing of the notice of lien in accordance with this subsection (a)(2) and payment of a fee of \$5, the notice of lien shall be retained by the office where filed and may be enforced and foreclosed in the same manner as a security agreement under the provisions of the uniform commercial code. If the notice of lien is filed in the office of the secretary of state, the filing officer shall file, index, amend, maintain, remove and destroy the notice of lien in the same manner as a financing statement filed under part 4 of article 9 of the uniform commercial code. The secretary of state shall charge the same filing and information retrieval fees and credit the amounts in the same manner as financing statements filed under part 4 of article 9 of the uniform commercial code. Notwithstanding any provision of this section authorizing a lien on a vessel or aircraft of an obligor, no lien shall attach to any vessel or aircraft which the obligor has transferred to another person who has purchased the vessel or aircraft or accepted it by trade in exchange for other property or services in good faith, for value, prior to the time that the lien on the vessel or aircraft has been noted and perfected in the manner provided by this subsection (a)(2).

(3) In any case filed under chapter 60 or 61 of the Kansas Statutes Annotated, the obligee may perfect a lien on the obligor's interest in any judgment or settlement in the case by filing a notice of lien with the clerk of the district court. Copies shall be served on appropriate parties to the action. The notice of lien shall have the effect of attaching the obligor's interest in any judgment or settlement in the case. Any person holding property or funds to satisfy any judgment or settlement in the obligor's favor shall be prohibited from transferring to the obligor any of such property or funds without the written consent of the obligee. At the time that the holder would otherwise be required to transfer property to the obligor, such property shall be transferred to the obligee unless the lien on the property has been released. Nothing in this subsection shall be construed to require the holder to transfer any property to the obligee any sooner than the holder would have been required to transfer property to the obligor. To the extent that an attorney's lien on the obligor's interest in any settlement or judgment is perfected before service of the notice of lien under this section, the attorney's lien shall have priority. If the property or funds are insufficient to satisfy all liens, the court shall conduct a hearing to determine the division of such property or funds for payment on each lien.

Any person affected by the notice of lien who is or will be a payor as defined in the income withholding act and amendments thereto may request that the obligee proceed under the income withholding act and release the lien perfected pursuant to this section.

(4) If the obligor is or may become entitled to workers compensation benefits, the obligee may perfect a lien on the benefits by serving a notice of lien on the obligor. Copies shall be served on appropriate persons, including but not limited to the director of workers compensation. The notice of lien shall have the effect of attaching the obligor's interest in the workers compensation benefits. Any person holding property or funds to satisfy the obligor's interest shall be prohibited from transferring to the obligor any of such property or funds without the written consent of the obligee. At the time that the holder would otherwise be required to transfer property to the obligor, such property shall be transferred to the obligee unless the lien on the property has been released. Nothing in this subsection shall be construed to require the holder to transfer any property to the obligee any sooner than the holder would have been required to transfer property to the obligor. To the extent that attorney fees are allowed by K.S.A. 44-501 et seq., and amendments thereto, the attorney fees shall have priority subject to the current limitations provided in K.S.A. 44-720, and amendments thereto.

Any person affected by the notice of lien who is or will be a payor as defined in the income withholding act and amendments thereto may request that the obligee proceed under the income withholding act and release the lien perfected pursuant to this section.

(b) As used in this section:

(1) "Aircraft" has the meaning provided by K.S.A. 3-201, and amendments thereto.

(2) "Vehicle" has the meaning provided by K.S.A. 8-126, and amendments thereto.

(3) "Vessel" has the meaning provided by K.S.A. 82a-801, and amendments thereto.

(4) "Arrearage," "title IV-D," "obligor" and "order for support" have the meanings provided by K.S.A. 2016 Supp. 23-3102, and amendments thereto.

(5) "Obligee" means the person or entity to whom a duty of support is owed, including, but not limited to, any title IV-D agency.

(6) "Workers compensation" has the meaning provided by K.S.A. 44-501 et seq., and amendments thereto.

(7) "Attorney's lien" has the meaning provided by K.S.A. 7-108, and amendments thereto.

History: L. 1985, ch. 115, § 29; L. 1986, ch. 137, § 21; L. 1997, ch. 182, § 31; July 3.