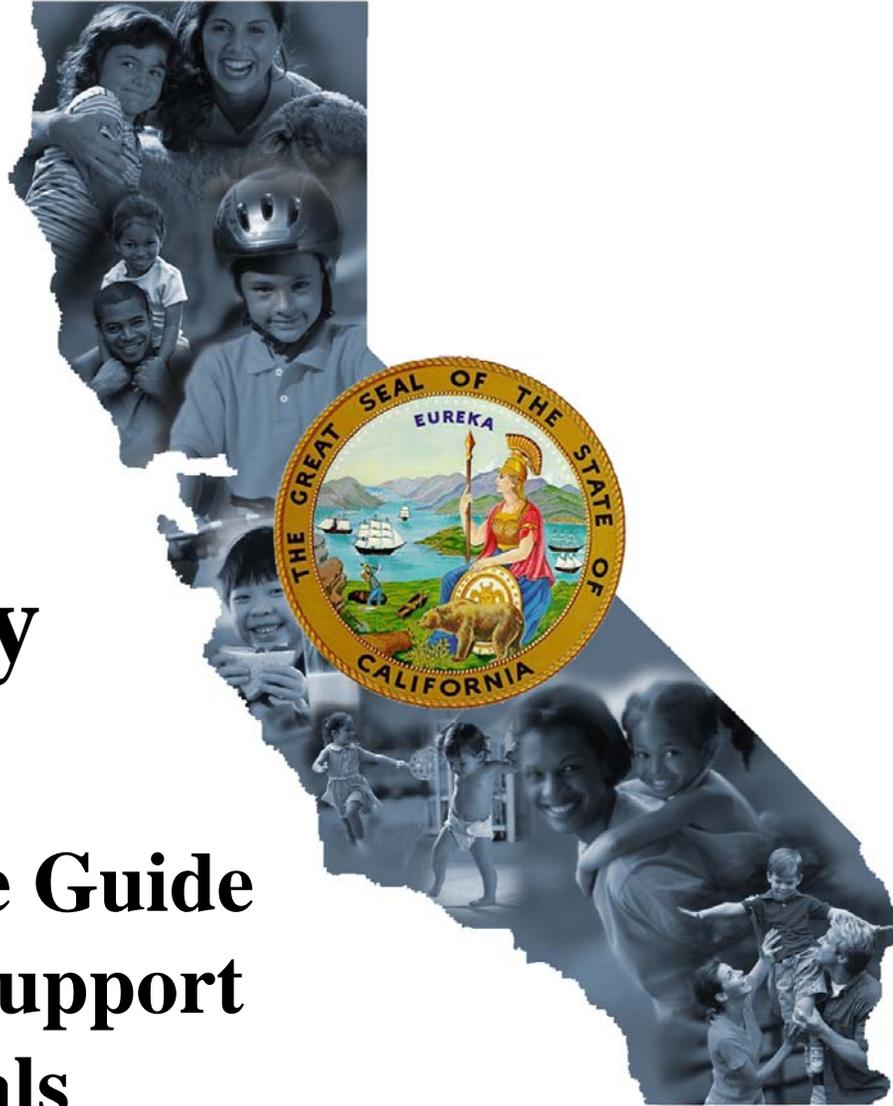




Department of Child Support Services

Real Property Liens

A Resource Guide for Child Support Professionals





Resource Guide

Real Property Liens

OBJECTIVES

- ✓ Become familiar with Real Property Liens and how Child Support is affected
- ✓ Demonstrate understanding of the Real Property Liens Resource Guide by completing the Exercise



Resource Guide

Real Property Liens

Creating Real Property Liens

Under most circumstances,
immediate enforcement action

prevents Obligor from

- Selling
- Transferring
- Refinancing





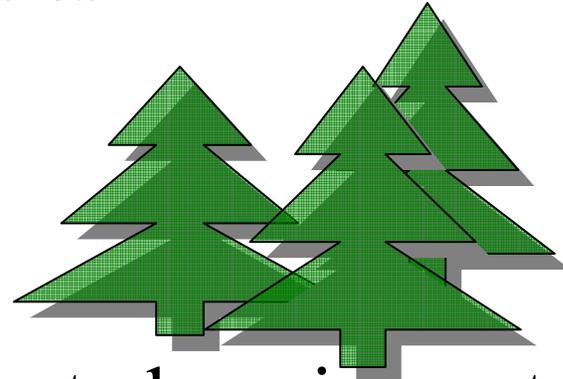
Resource Guide

Real Property Liens

Creating Real Property Liens

Real property includes

- Land
- Structures
- Firmly attached and integrated equipment
- Anything growing on the land
- All interests in the property





Resource Guide

Real Property Liens

Creating Real Property Liens

A real property lien is
“A charge against the real property
to secure payment of a support obligation
at the time of sale or transfer
of real property.”

(22 CCR, §110698)



Resource Guide

Real Property Liens

Creating Real Property Liens

- Property is security against debt payment
- Prevents sale or transfer until debt paid
- Lien holder has right to sell property to pay debt
- Must record with County Recorder of the county where the property is located to be enforceable



Resource Guide

Real Property Liens

Creating Real Property Liens

Why create real property liens?

- Required by regulations
- Ensures obligor fulfills support order





Resource Guide

Real Property Liens

Creating Real Property Liens

Real property liens required for:

- Intercounty responding cases
- Intracounty cases
- Interstate initiating cases
- Interstate responding cases





Resource Guide

Real Property Liens

Creating Real Property Liens

Obligor's property subject to the lien

- All real property in county where lien recorded.
- Any real property obligor acquires in county





Resource Guide

Real Property Liens

Creating Real Property Liens

File a lien within 45 days of:



- Money judgment or order received
- A case opened for enforcement or existing order or judgment
- An existing order is registered for enforcement



Resource Guide

Real Property Liens

Creating Real Property Liens

Do not file a real property lien when:

- Order for support is \$0
- Order for support is “reserved”
- Obligor has filed for Chapter 13 Bankruptcy



Real Property Liens

Creating Real Property Liens

When an obligor files for bankruptcy

- Automatic stay created
- Cannot file a lien
- Exceptions:
 - Real property not part of the property of the bankruptcy estate
 - LCSA obtained relief from the stay





Resource Guide

Real Property Liens

Creating Real Property Liens

Create a lien



Complete and record one of the following:

- Abstract of Support Judgment, FL-480
- Notice of Support Judgment, DCSS-0239
- Certified copy of the order or money judgment
- Notice of Lien, OMB 0970-0153



Resource Guide

Real Property Liens

Creating Real Property Liens

Notice of Support Judgment DCSS 0239

- Court proceeding title, cause, and number
- Dates: entry of judgment; stay of enforcement ends, if ordered by court; abstract issued
- Obligor information
 - Name, address, SSN, birth date, CDL
- CP information



Resource Guide

Real Property Liens

Creating Real Property Liens

Abstract of Support Judgment FL-480

- Same information as Notice of Support Judgment
- Certified by court clerk where judgment entered



Resource Guide

Real Property Liens

Creating a Real Property Lien

Certified copy of the Order or Money Judgment

- Used less often
Why? The Abstract and Notice are more useful in title searches
- Must record new certified copy for each modification





Resource Guide

Real Property Liens

Creating Real Property Liens

(Federal) Notice of Lien OMB 0970-0153



- Used in interstate cases
- Legal description of the property is required
- Notice of Lien is recorded in the county where the property is located



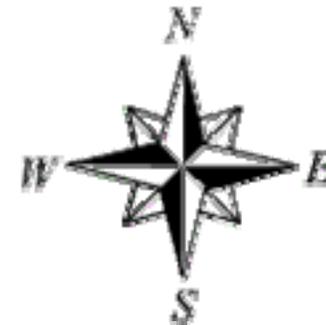
Resource Guide

Real Property Liens

Creating Real Property Liens

Record a lien in each county where:

- Obligor lives
- Obligor's parents live
- Obligor's real property interests known
- Obligor may acquire real property





Resource Guide

Real Property Liens

Creating Real Property Liens

How much should a lien be for?

Matured Installment

+

Accrued Interest

+

Costs

—

Payments

=

Lien Amount





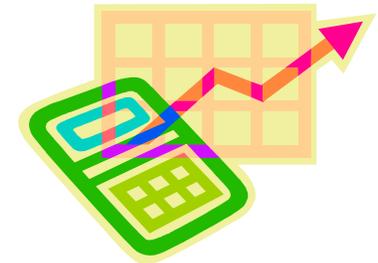
Resource Guide

Real Property Liens

Creating Real Property Liens

When support order changes

- Lien extends to judgment or order as modified
- No need to record a new
 - Notice of Support Judgment
 - Abstract of Support Judgment
 - Notice of Lien
- What if the support order increases?





Resource Guide

Real Property Liens

Creating Real Property Liens

How long does a lien last?



- As long as support judgment or order remains enforceable
- Until all support obligations are paid in full or otherwise satisfied
- Lien remains attached to transferred property



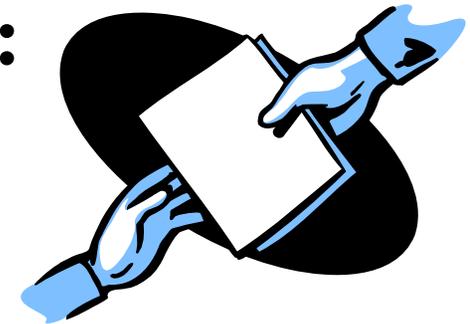
Resource Guide

Real Property Liens

Satisfaction of Judgment

Satisfaction of Judgment filed for:

- Full satisfaction of judgment
- Partial satisfaction of judgment
- Matured installment satisfaction of judgment



Use Acknowledgment of Satisfaction of Judgment,
EJ-100

<http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>

Give certified copy to obligor



Resource Guide

Real Property Liens

Satisfaction of Judgment

Full Satisfaction of Judgment

Full satisfaction of judgment means:

- The obligor has paid all support arrears in full, and
- All the children in the support order have been emancipated, adopted away, or are deceased.





Resource Guide

Real Property Liens

Satisfaction of Judgment

Partial Satisfaction of Judgment

- Specified amount paid
- Actual dollar amount required on the form
- May be appropriate when:
 - All support arrears paid in full, *and*
 - All children subject to support are not emancipated, *but*
 - No order for current support



Real Property Liens

Satisfaction of Judgment

Matured Installment Satisfaction of Judgment

- All installments, accrued interest, and costs paid through a specified date
- All support arrears paid in full
- Some/all children not emancipated
- Requested by title or escrow company, obligor, or CP





Resource Guide

Real Property Liens

Release of Real Property Liens

Release of Judgment Lien

DCSS 0240

Prepared by LCSA

- Recorded in each county liens recorded
- LCSA no longer claiming interest in property

Recording the Release does not:

- Mean the judgment or order satisfied
- Affect the amount of support owed by obligor
- Prevent LCSA from recording another lien



Resource Guide

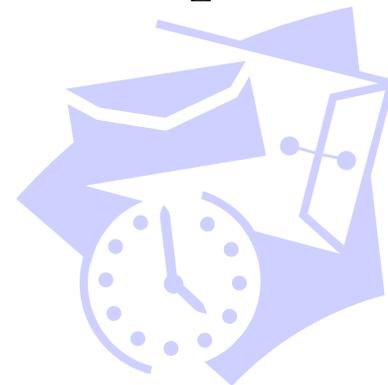
Real Property Liens

Release of Real Property Liens

When to use a Release of Judgment Lien

Property owner's (not obligor) written demand letter received with proof of satisfaction.

- Release due within 15 days of receipt of demand and proof





Resource Guide

Real Property Liens

Release of Real Property Liens

When to use a Release of Judgment Lien

All support arrears paid in full and case closure appropriate

- Release due within 5 days of determination case should be closed





Resource Guide

Real Property Liens

Release of Real Property Liens

When to use a Release of Judgment Lien

LCSA receives court order to deliver a release

- Release due within 15 days of receipt of court order, or time frame given in court order, whichever is less.





Real Property Liens

Release of Real Property Liens

Specific (partial) release of lien

Releases a particular piece of property, but not all real property interests held by obligor in county where lien is recorded.





Resource Guide

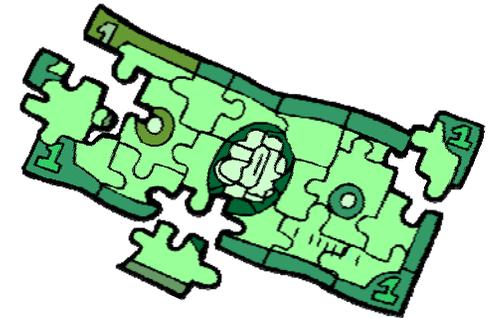
Real Property Liens

Release of Real Property Liens

When to prepare a specific (partial) release of lien

Consider:

- Type of transaction involved
- Obligor's equity in the property
- Obligor's other available income and assets to satisfy lien
- Obligor's ability to obtain a loan to satisfy remaining arrears





Resource Guide

Real Property Liens

Release of Real Property Liens

Setting priorities for multiple real property liens on a property

State law determines order in which competing liens are paid

Factors considered:

- Date liens created
- Types of underlying judgments or order that created liens





Resource Guide

Real Property Liens

Release of Real Property Liens

What is subordination?

Prioritize different liens, encumbrances, interests, and claims on same parcel of land.

Subordinate support lien only when obligor does not receive money upon close of escrow.



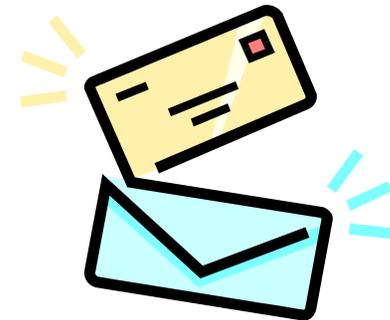
Resource Guide

Real Property Liens

Substitution of Payee

Substitution of Payee

A requirement to contact lien holder also extends to a substitute, including LCSA



Notice Regarding Payment of Support,
FL-632



Resource Guide

Real Property Liens

Substitution of Payee

File Notice Regarding Payment of Support

When:

- Payments are directed to CP or another LCSA
- A non-welfare CP with unassigned current support and/or arrears due requests case closure
- All support arrears paid in full but CP alleges support arrears still owing
- Case transferred to another LCSA in CA for IV-D services



Real Property Liens

Substitution of Payee

Notice Regarding Payment of Support

Include:

- Filing governmental agency or substitute payee
- Substitute payee contacted when notice to lien holder
- NCP information
- Recording identification, i.e. court, cause, proceeding, recorded



Resource Guide

Real Property Liens

Interstate Real Property Liens

Interstate Lien

Record a Notice of Lien, OMB 0970-0153 if:

- CP resides in California; and
- Obligor resides in another state
- Obligor resides in California, but owns real property in state(s) other than California; or
- LCSA has not requested enforcement by another state under provisions of UIFSA



Resource Guide

Real Property Liens

Interstate Real Property Liens

Notice of Lien, OMB 0970-0153

<http://www.acf.dhhs.gov/programs/cse/forms/>

- Record in county or jurisdiction where real property located
- Include specific legal definition of the real property
- Lien attaches to all obligor's real property interest in county
- Record with the appropriate county office or department as determined by the state
- DO NOT send Notice of Lien to Central Registry or Title IV-D office



Department of Child Support Services



Exercise



Real Property Liens

Answers to the Exercise

1. Title 22, Section 110698 of the Social Security Act defines a real property lien as a charge against _____ to secure payment of a support obligation at the time of _____ or _____ of real property.
2. A lien must be filed against the real property of an obligor within _____ calendar days of a qualifying action.



Resource Guide

Real Property Liens

Answers to the Exercise

3. In regards to bankruptcy, generally, you are prohibited from filing a _____ against the obligor until the bankruptcy is discharged or _____.

4. An _____ is one of the acceptable documents that you must record with the county recorder when creating a real property lien.



Resource Guide

Real Property Liens

Answers to the Exercise

5. An Acknowledgment of Satisfaction of Judgment, EJ-100 is used for full or _____ satisfaction of judgment or a matured _____ satisfaction of judgment.
6. A _____ is recorded when the LCSA is no long claiming any interest in the real property of the obligor in the county where the release is recorded.



Resource Guide

Real Property Liens

Answers to the Exercise

7. Subordination agreements _____ require LCSA legal review.

A. do

B. do not

8. The transference of a case to another LCSA in California for Title IV-D services is only one of several circumstances in which you should file a _____ for substitution of payee.



Resource Guide

Real Property Liens

Answers to the Exercise

9. You must record a (Federal) Notice of Lien in another state when the _____ (obligor/custodial party) resides in California and the _____ (obligor/custodial party) resides in a state outside of California and the LCSA has not requested enforcement by another state under the provisions of UIFSA.
10. A (Federal) _____ is sent to the proper recorder's office or department of the local jurisdiction in the state in which the obligor owns an interest in real property and not through the Central Registry or Title IV-D office of the other state.



Department of Child Support Services



Exercise Answers

Real Property Liens Resource Guide 45

October 2007



Real Property Liens

Exercise

1. Title 22, Section 110698 of the Social Security Act defines a real property lien as a charge against real property to secure payment of a support obligation at the time of sale or transfer of real property.
2. A lien must be filed against the real property of an obligor within 45 calendar days of a qualifying action.



Real Property Liens

Exercise

3. In regards to bankruptcy, generally, you are prohibited from filing a real property lien against the obligor until the bankruptcy is discharged or dismissed.
4. An Abstract of Support Judgment is one of the acceptable documents that you must record with the county recorder when creating a real property lien.



Resource Guide

Real Property Liens

Exercise

5. An Acknowledgment of Satisfaction of Judgment, EJ-100 is used for full or partial satisfaction of judgment or a matured installment satisfaction of judgment.
6. A Release of Judgment Lien is recorded when the LCSA is no long claiming any interest in the real property of the obligor in the county where the release is recorded.



Real Property Liens

Exercise

7. Subordination agreements do require LCSA legal review.
8. The transference of a case to another LCSA in California for Title IV-D services is only one of several circumstances in which you should file a Notice Regarding Payment of Support for substitution of payee.



Real Property Liens

Exercise

9. You must record a (Federal) Notice of Lien in another state when the custodial party resides in California and the obligor resides in a state outside of California and the LCSA has not requested enforcement by another state under the provisions of UIFSA.
10. A (Federal) Notice of Lien is sent to the proper recorder's office or department of the local jurisdiction in the state in which the obligor owns an interest in real property and not through the Central Registry or Title IV-D office of the other state.



Department of Child Support Services



Questions ?

Thank You