

2A:34-24

10/22/8

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:34-24

(Child support liens-- modify priority)

CHAPTER 109

Laws Of: 1987

Bill No: S2335

Sponsor(s): Di Francesco and Jackman

Date Introduced: June 23, 1986

Committee: Assembly: Judiciary

Senate: Children's Services

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: October 20, 1986

Senate: March 12, 1987

Date of Approval: April 24, 1987

Following statements are attached if available:

Sponsor statement: Yes (Below)

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Sponsor's statement:

This bill is essential to clarify this provision of law so that mortgage loans made by mortgage lenders will continue to be available to all prospective home buyers.

109 4.24.87 87

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SENATE, No. 2335

STATE OF NEW JERSEY

INTRODUCED JUNE 23, 1986

By Senators JACKMAN and DiFRANCESCO

Referred to Committee on Children's Services

AN ACT concerning the priority of a lien for child support enforcement and amending N. J. S. 2A:34-24.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. N. J. S. 2A:34-24 is amended to read as follows:

2 2A:34-24. If an obligor ***[spouse]*** shall abandon *an* obligee
3 ***[spouse]*** or separate from the obligee and refuse or neglect to
4 maintain and provide for the obligee, the court may order suitable
5 support and maintenance to be paid and provided by the obligor for
6 the obligee and their children***[**, or any of them, by their mar-
7 riage]*. If the obligor fails to comply with the order of the court,
8 entered in New Jersey or another jurisdiction, the court may im-
9 pose a lien against the real and personal property of the obligor
10 who lives in or owns property in New Jersey to secure payment
11 of the overdue support and for such time as the nature of the case
12 and circumstances of the parties render suitable and proper $\left[$.
13 Such $\right]$; *such* lien shall have priority $\left[$ over any claim that may
14 interrupt the support and maintenance for the obligee and their
15 children, or any of them $\right]$ *from the time of the proper filing or*
15A *recording.*

16 If the circumstances warrant, for such overdue support or main-
17 tenance, upon reasonable notice, the court may compel the obligor
18 to give reasonable security, post a bond, or other guarantee for
19 such overdue support and for present and future support and main-
20 tenance and may, from time to time, make further orders touch-

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted September 15, 1986.

21 ing the same as shall be just and equitable and enforce such judg-
22 ment and orders in the manner provided in *N. J. S. 2A:34-23*.
1 2. This act shall take effect immediately.

BANKING AND FINANCIAL INSTITUTIONS
Modifies priority of lien for child support.

STATEMENT

This bill is essential to clarify this provision of law so that mortgage loans made by mortgage lenders will continue to be available to all prospective home buyers.

BANKING AND FINANCIAL INSTITUTIONS

Modifies priority of lien for child support.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2335

STATE OF NEW JERSEY

DATED: JANUARY 8, 1987

The Assembly Judiciary Committee reports favorably Senate Bill No. 2335.

This bill amends N. J. S. 2A:34-24 to provide that the lien imposed against an obligor's real and personal property to secure payment of overdue child support shall have priority only from the time of its proper filing or recording. Current law provides that this lien has priority over any claim that may interrupt the support and maintenance for the obligee and the children.

The bill deletes the word "spouse" and the phrase "or any of them, by their marriage" from section one to conform to federal requirements that the lien provision applies to the obligee and the children regardless of the obligor's marital status.

SENATE COMMITTEE ON CHILDREN'S SERVICES

STATEMENT TO

SENATE, No. 2335

with Senate committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 1986

The Senate Committee on Children's Services favorably reports Senate Bill No. 2335 with committee amendments.

As amended, the bill amends N. J. S. 2A:34-24 to provide that the lien imposed against the obligor's real and personal property to secure payment of overdue support shall have priority only from the time of its proper filing or recording. Current law provides that this lien has priority over any claim that may interrupt the support and maintenance for the obligee and the children.

The committee amended the bill to delete the word "spouse" and the phrase "or any of them, by their marriage" from section one of the bill to conform to federal requirements that the lien provision apply to the obligee and the children regardless of the obligor's marital status.

(b) *Accuracy of amounts referred for offset.* The IV-D agency must establish procedures to ensure that:

(1) Amounts referred for offset have been verified and are accurate; and

(2) The appropriate State office or agency is notified of any significant reductions in (including an elimination of) an amount referred for collection by State income tax refund offset.

(c) *Notice to custodial parent in non-AFDC cases.* In non-AFDC cases, the State must inform the non-AFDC custodial parent in advance if it will first use any offset amount to satisfy any unreimbursed AFDC and foster care maintenance payments which have been provided to the family.

(d) *Advance notice to absent parent.* The State must send a written advance notice to inform the absent parent of the referral for State income tax refund offset and of the opportunity to contest the referral.

(e) *Procedures for contesting offset and for reimbursing excess amounts offset.* (1) The State must establish procedures, which are in full compliance with the State's procedural due process requirements, for an absent parent to use to contest the referral of overdue support for State income tax refund offset.

(2) If the offset amount is found to be in error or to exceed the amount of overdue support, the State IV-D agency must take steps to refund the excess amount in accordance with procedures that include a mechanism for promptly reimbursing the absent parent.

(3) The State must establish procedures for ensuring that in the event of a joint return, the absent parent's spouse can apply for a share of the refund, if appropriate, in accordance with State law.

(f) *Fee for non-AFDC cases.* In non-AFDC cases, the State may charge a reasonable fee to cover the cost of collecting overdue support using State tax refund offset.

(g) *Distribution of collections.* (1) Within a reasonable time period in accordance with State law, a State must distribute collections received as a result of State income tax refund offset: (i) for an AFDC case under § 302.51(b) (4) and (5) of this chapter,

(ii) for a foster care maintenance case under § 302.52(b) (3) and (4) of this chapter; and (iii) for a non-AFDC case, by paying offset amounts to the family first or using them first to reimburse the State, depending on the State's method for distributing arrearage collections in non-AFDC cases.

(2) If the amount collected is in excess of the amounts required to be distributed under paragraph (g)(1) of this section, the IV-D agency must repay the excess to the absent parent whose State income tax refund was offset within a reasonable period in accordance with State law.

(3) The State must credit amounts offset on individual payment records.

(h) *Information to the IV-D agency.* The State agency responsible for processing the State tax refund offset must notify the State IV-D agency of the absent parent's home address and social security number or numbers. The State IV-D agency must provide this information to any other State involved in enforcing the support order.

[50 FR 19655, May 9, 1985; 50 FR 31720, Aug. 6, 1985]

EDITORIAL NOTE: At 50 FR 19655, May 9, 1985, § 303.102(b), (c), (d), (e)(1) and (3) and (h) were added. This amendment contains information collection requirements which will not be effective until approval has been obtained from the Office of Management and Budget. A notice will be published in the FEDERAL REGISTER.

§ 303.103 Procedures for the imposition of liens against real and personal property.

(a) The State shall have in effect and use procedures which require that a lien will be imposed against the real and personal property of an absent parent who owes overdue support and who resides or owns property in the State.

(b) The State must develop guidelines which are generally available to the public to determine whether the case is inappropriate for application of this procedure.

[50 FR 19656, May 9, 1985]

EDITORIAL NOTE: At 50 FR 19656, May 9, 1985, § 303.103(a) and (b) were added. This amendment contains information collection requirements which will not be effective until approval has been obtained from the