

AMENDMENTS TO LB720

Introduced by Dover, 19.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 42-371, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 42-371 Under the Uniform Interstate Family Support Act and sections
6 42-347 to 42-381, 43-290, 43-512 to 43-512.10, and 43-1401 to 43-1418:

7 (1)(a) Except as provided in subdivision (1)(b) of this section, all
8 ~~(1)~~ All judgments and orders for payment of money shall be liens, as in
9 other actions, upon real property and any personal property registered
10 with any county office and may be enforced or collected by execution and
11 the means authorized for collection of money judgments. ÷

12 (b) A judgment or order for payment of child support or spousal
13 support creates a lien upon the real or personal property of the judgment
14 debtor which attaches when the payment is due and extinguishes when the
15 payment is made.

16 (c) For purposes of this section, a current child support or spousal
17 support order payment history from the Title IV-D Division of the
18 Department of Health and Human Services setting forth evidence that all
19 support payments are current is prima facie evidence that such payments
20 are in fact current and such evidence operates to release the lien
21 described in subdivision (1)(b) of this section;

22 (2) The judgment creditor may execute a partial or total release of
23 the judgment or a document subordinating the lien of the judgment to any
24 other lien, generally or on specific real or personal property.

25 Release of a judgment for child support or spousal support or
26 subordination of a lien of a judgment for child support or spousal
27 support may, if all such payments are current and not delinquent or in

1 arrears, be released or subordinated by a release or subordination
2 document executed by the judgment creditor, and such document shall be
3 sufficient to remove or subordinate the lien. A properly executed,
4 notarized release or subordination document explicitly reciting that all
5 child support payments or spousal support payments are current is prima
6 facie evidence that such payments are in fact current. For purposes of
7 this section, any delinquency or arrearage of support payments shall be
8 determined as provided in subsection (2) of section 42-358.02;

9 (3) If a judgment creditor refuses to execute a release of the
10 judgment or subordination of a lien as provided in subdivision (2) of
11 this section or the support payments are not current, the person desiring
12 such release or subordination may file an application for the relief
13 desired in the court which rendered the original judgment. A copy of the
14 application and a notice of hearing shall be served on the judgment
15 creditor either personally or by registered or certified mail no later
16 than ten days before the date of hearing. If the court finds that the
17 release or subordination is not requested for the purpose of avoiding
18 payment and that the release or subordination will not unduly reduce the
19 security, the court may issue an order releasing real or personal
20 property from the judgment lien or issue an order subordinating the
21 judgment lien. As a condition for such release or subordination, the
22 court may require the posting of a bond with the clerk in an amount fixed
23 by the court, guaranteeing payment of the judgment. If the court orders a
24 release or subordination, the court may order a judgment creditor who,
25 without a good faith reason, refused to execute a release or
26 subordination to pay the judgment debtor's court costs and attorney's
27 fees involved with the application brought under this subdivision. A
28 showing that all support payments are current shall be evidence that the
29 judgment creditor did not have a good faith reason to refuse to execute
30 such release or subordination. For purposes of this section, a current
31 certified copy of support order payment history from the Title IV-D

1 Division of the Department of Health and Human Services setting forth
2 evidence that all support payments are current is prima facie evidence
3 that such payments are in fact current and is valid for thirty days after
4 the date of certification;

5 (4) Full faith and credit shall be accorded to a lien arising by
6 operation of law against real and personal property for amounts overdue
7 relating to a support order owed by a judgment debtor or obligor who
8 resides or owns property in this state when another state agency, party,
9 or other entity seeking to enforce such lien complies with the procedural
10 rules relating to the filing of the lien in this state. The state agency,
11 party, or other entity seeking to enforce such lien shall send a
12 certified copy of the support order with all modifications, the notice of
13 lien prescribed by 42 U.S.C. 652(a)(11) and 42 U.S.C. 654(9)(E), and the
14 appropriate fee to the clerk of the district court in the jurisdiction
15 within this state in which the lien is sought. Upon receiving the
16 appropriate documents and fee, the clerk of the district court shall
17 accept the documents filed and such acceptance shall constitute entry of
18 the foreign support order for purposes of this section only. Entry of a
19 lien arising in another state pursuant to this section shall result in
20 such lien being afforded the same treatment as liens arising in this
21 state. The filing process required by this section shall not be construed
22 as requiring an application, complaint, answer, and hearing as might be
23 required for the filing or registration of foreign judgments under the
24 Nebraska Uniform Enforcement of Foreign Judgments Act or the Uniform
25 Interstate Family Support Act;

26 (5) Support order judgments shall cease to be liens on real or
27 registered personal property ten years from the date (a) the youngest
28 child becomes of age or dies or (b) the most recent execution was issued
29 to collect the judgment, whichever is later, and such lien shall not be
30 reinstated;

31 (6) Alimony and property settlement award judgments, if not covered

1 by subdivision (5) of this section, shall cease to be a lien on real or
2 registered personal property ten years from the date (a) the judgment was
3 entered, (b) the most recent payment was made, or (c) the most recent
4 execution was issued to collect the judgment, whichever is latest, and
5 such lien shall not be reinstated;

6 (7) The court may in any case, upon application or its own motion,
7 after notice and hearing, order a person required to make payments to
8 post sufficient security, bond, or other guarantee with the clerk to
9 insure payment of both current and any delinquent amounts. Upon failure
10 to comply with the order, the court may also appoint a receiver to take
11 charge of the debtor's property to insure payment. Any bond, security, or
12 other guarantee paid in cash may, when the court deems it appropriate, be
13 applied either to current payments or to reduce any accumulated
14 arrearage;

15 (8)(a) The lien of a mortgage or deed of trust which secures a loan,
16 the proceeds of which are used to purchase real property, and (b) any
17 lien given priority pursuant to a subordination document under this
18 section shall attach prior to any lien authorized by this section. Any
19 mortgage or deed of trust which secures the refinancing, renewal, or
20 extension of a real property purchase money mortgage or deed of trust
21 shall have the same lien priority with respect to any lien authorized by
22 this section as the original real property purchase money mortgage or
23 deed of trust to the extent that the amount of the loan refinanced,
24 renewed, or extended does not exceed the amount used to pay the principal
25 and interest on the existing real property purchase money mortgage or
26 deed of trust, plus the costs of the refinancing, renewal, or extension;
27 and

28 (9) Any lien authorized by this section against personal property
29 registered with any county consisting of a motor vehicle or mobile home
30 shall attach upon notation of the lien against the motor vehicle or
31 mobile home certificate of title and shall have its priority established

1 pursuant to the terms of section 60-164 or a subordination document
2 executed under this section.

3 Sec. 2. Original section 42-371, Reissue Revised Statutes of
4 Nebraska, is repealed.