

CHILD SUPPORT STATUTE OF LIMITATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Clare Collard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the statute of limitations for child support.

Highlighted Provisions:

This bill:

- ▶ repeals the statute of limitations for child support orders and sum certain judgments for past due support;
- ▶ provides that a child support order, or a sum certain judgment for past due support, is not subject to the civil statutes of limitations or repose and expires only upon payment in full;
- ▶ addresses retroactivity; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-202, as last amended by Laws of Utah 2014, Chapter 151

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section 78B-5-202 is amended to read:

29 **78B-5-202. Duration of judgment -- Judgment as a lien upon real property --**
30 **Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child**
31 **support orders.**

32 (1) ~~[Judgments]~~ A judgment shall continue for eight years from the date of entry in a
33 court unless:

34 (a) previously satisfied; or ~~[unless]~~

35 (b) enforcement of the judgment is stayed in accordance with law.

36 (2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of
37 judgment by a district court creates a lien upon the real property of the judgment debtor, not
38 exempt from execution, owned or acquired during the existence of the judgment, located in the
39 county in which the judgment is entered.

40 (3) An abstract of judgment issued by the court in which the judgment is entered:

41 (a) may be filed in any court of this state; and

42 (b) shall have the same force and effect as a judgment entered in that court.

43 (4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small
44 claims division of any court may not qualify as a lien upon real property unless abstracted to
45 the civil division of the district court and recorded in accordance with Subsection (3).

46 (5) (a) If any judgment is appealed, upon deposit with the court where the notice of
47 appeal is filed of cash or other security in a form and amount considered sufficient by the court
48 that rendered the judgment to secure the full amount of the judgment, together with ongoing
49 interest and any other anticipated damages or costs, including attorney fees and costs on appeal,
50 the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

51 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court
52 shall enter an order terminating the lien created by the judgment and granting the judgment
53 creditor a perfected lien in the deposited security as of the date of the original judgment.

54 ~~[(6) (a) A child support order or a sum certain judgment for past due support may be~~
55 ~~enforced:]~~

56 ~~[(i) within four years after the date the youngest child reaches majority; or]~~

57 ~~[(ii) eight years from the date of entry of the sum certain judgment entered by a~~
58 ~~tribunal.]~~

59 ~~[(b) The longer period of duration shall apply in every order.]~~

60 ~~[(c) A sum certain judgment may be renewed to extend the duration.]~~

61 (6) (a) A child support order or a sum certain judgment for past due support:

62 (i) is not subject to any civil statute of limitations or repose; and

63 (ii) expires only upon payment in full.

64 (b) Subsection (6)(a) applies to a child support order, or a sum certain judgment for
65 past due support, entered on or after May 4, 2000.

66 (c) Subsection (6)(b) does not revive a cause of action for a child support order, or a
67 sum certain judgment for past due support, that was time barred on or before May 4, 2022.

68 (7) (a) After July 1, 2002, a judgment entered by a district court or a justice court in the
69 state becomes a lien upon real property if:

70 (i) the judgment or an abstract of the judgment containing the information identifying
71 the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the
72 county recorder; or

73 (ii) the judgment or an abstract of the judgment and a separate information statement of
74 the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the
75 county recorder.

76 (b) The judgment shall run from the date of entry by the district court or justice court.

77 (c) The real property subject to the lien includes all the real property of the judgment
78 debtor:

79 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

80 (ii) owned or acquired at any time by the judgment debtor during the time the judgment
81 is effective.

82 (d) ~~[State agencies are]~~ A state agency is exempt from the recording requirement of
83 Subsection (7)(a).

84 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the
85 judgment debtor in the judgment index in the office of the county recorder as required in
86 Section 17-21-6.

87 (b) A judgment containing a legal description shall also be abstracted in the appropriate
88 tract index in the office of the county recorder.

89 (9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the

90 office of a county recorder, a person shall, in the office of the county recorder of each county in
91 which an instrument creating the lien is recorded, record a document releasing, assigning,
92 renewing, or extending the lien.

93 (b) The document described in Subsection (9)(a) shall include:

94 (i) the date of the release, assignment, renewal, or extension;

95 (ii) the name of any judgment creditor, debtor, assignor, or assignee; and

96 (iii) for the county in which the document is recorded in accordance with Subsection

97 (9)(a):

98 (A) the date on which the instrument creating the lien was recorded in that county's

99 office of the county recorder; and

100 (B) in accordance with Section [57-3-106](#), that county recorder's entry number and book

101 and page of the recorded instrument creating the judgment lien.