

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Human Resources

RULE NO. & TITLE:

660-3-12-.01	Definitions
660-3-12-.03	Data Match Criteria
660-3-12-.04	Implementation of Administrative Lien
660-3-12-.05	Implementation of Administrative Levy
660-3-12-.06	Right To Contest Lien/Levy
660-3-12-.07	Release of Lien/Levy

INTENDED ACTION: Proposed amendment to rules to comply with Code of Ala. 1975, as amended, § 30-3-197(a)(6) and § 30-3-198.

SUBSTANCE OF PROPOSED ACTION: The rule has been proposed to comply with Alabama law in regards to the enforcement of support orders by implementation of an administrative lien/levy and to comply with Departmental procedures or changes to lien/levy.

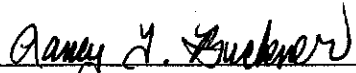
TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views or arguments respecting the proposed amendment by mail or in person through close of business on April 4, 2016. Persons wishing to submit data, views or arguments orally should contact the Department's Administrative Procedures Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-9330 to set up an appointment for such oral/in person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

April 4, 2016

CONTACT PERSON AT AGENCY:

Ms. Gail Grobe
State Department of Human Resources
Gordon Persons Building
50 Ripley Street
Montgomery, Alabama 36130-1801



Nancy T. Buckner, Commissioner
Department of Human Resources

**ECONOMIC IMPACT STATEMENT
FOR APA RULE**

Control No. 660 Department or Agency Department of Human Resources

Rule No. 660-3-12

Rule Title: Financial Institution Data Match

 New X Amend Repeal Adopt by Reference

 This rule has no economic impact.

 X This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

The noncustodial parent will benefit from the amended rule in that the financial account must have a balance of at least \$5000 as of the date of the financial institution data match in order to do a lien/levy.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

The rule will require the noncustodial parent's financial account balance to be at least \$5000 as of the date of the financial institution data match, which is an increase over the existing required amount.

3. EFFECT OF THIS RULE ON COMPETITION:

N/A

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

N/A

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

N/A

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

N/A

660-3-12-.06 Right to Contest Lien/Levy.

(1) The noncustodial parent has a right to an administrative desk review of the action taken to implement a lien and a levy against his/her assets. The request for review must be in writing within fifteen (15) calendar days of the date appearing on the Notice of Lien. The Obligor Notice of Lien instructs the noncustodial parent to mail the written request to the State IV-D agency.

(a) Reasons for contesting the lien/levy:

1. ~~The amount of past due child support is incorrect.~~ Mistake of fact.

2. ~~(S)He does not owe past due child support.~~ is receiving SSI or SSI money is in the financial account(s).

3. (S)He does not meet the qualifications for lien/levy.

4. (S)He is involved in bankruptcy proceedings.

(b) The noncustodial parent must provide proof, such as copies of:

1. Canceled checks or money orders.

2. Child Support orders or modifications to them.

3. Pay stubs that show child support withheld.

4. Letters from employers who have withheld wages.

5. Receipts for child support payments.

6. Court records documenting payment of child support.

7. Picture ID and Social Security Card to prove mistaken identity.

8. Any other applicable documents.

(c) A desk review will be conducted by the state IV-D agency within 30 days of receiving the request for an administrative desk review.

(2) If the issue cannot be resolved in an administrative desk review, the noncustodial parent has the right to request an administrative hearing. The non-custodial parent is advised in the Results of Administrative review document that the state IV-D agency must receive a written request for an administrative hearing within thirty (30) days of the date on the document or the money will distribute as child support.

(a) An administrative hearing will be conducted by the ~~state~~State IV-D agency within 90 days of receiving the written request.

(3) If the noncustodial parent does not agree with the findings of the administrative hearing, (s)he has the right to request a judicial review by filing a notice of appeal, cost bond, and petition for review as required under the Alabama Administrative Procedure Act. The noncustodial parent is advised in the results of administrative hearing document that the state IV-D agency must receive notice of the court action within thirty (30) days of the date on the document, or the money will distribute as child support.

(4) A person whose name appears jointly on the account with the noncustodial parent has the same right as the noncustodial parent to contest the action to lien/levy the assets. If the joint account holder claims the funds belong to him/her and not the noncustodial parent, ~~the~~the joint account holder must provide documentation that shows that the noncustodial parent's name is on the account strictly for fiduciary purposes ~~or the funds do not belong to the noncustodial parent.~~ Where there is a joint account and the noncustodial parent is not on the account for fiduciary purposes, 50% of the account funds shall be released to the joint account holder. Where there are more than two individuals listed on the account, the funds shall be released proportionately based on the number of individuals on the account.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, B.L. 104-193.

History: Emergency rule effective February 25, 2000. New Rule: Filed May 5, 2000; effective June 9, 2000.

Amended: Filed September 11, 2014; effective October 16, 2014.

Amended: Filed February 18, 2016; effective May 10, 2016.