

**GENERAL INFORMATION SYSTEM**  
**Center for Employment & Economic Supports**

**June 2, 2014**

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**TO:** Subscribers

**SUGGESTED DISTRIBUTION:** TA Directors, Financial Directors, Staff Development Coordinators

**FROM:** Phyllis Morris, Deputy Commissioner, Center for Employment and Economic Supports

**SUBJECT:** LDSS-5041: "Lien Acknowledgement" Form

**EFFECTIVE DATE:** May 30, 2014

**CONTACT PERSON:** Temporary Assistance Bureau at 1-800-343-8859-ext, 4-9366

The purpose of this GIS is to advise Social Services Districts (SSDs) of the enactment of Chapter 56 of the Laws of 2014 which amends Social Services Law (SSL) 106. Effective May 30, 2014, SSL 106 now requires the following:

1. SSDs must inform Temporary Assistance (TA) applicant and recipient real property owners, in writing, that:

a real property lien will not be used to recover any benefits provided by the SSD as part of:

- Supplemental Nutrition Assistance Program (SNAP);
- Child Care Services;
- Emergency Assistance to Adults (EAA); or
- Home Energy Assistance Program (HEAP); and

if an applicant or recipient property owner declines to provide the lien, the remaining household members, including minor children, will continue to be eligible to receive TA, if otherwise eligible.

2. The SSD must obtain a signed acknowledgement from the TA applicant and recipient real property owners to document that they have received the above required information prior to the SSD's acceptance of a lien; and
3. For liens taken after May 29, 2014, the SSD must not recover any TA from a lien on real property unless the SSD has a signed acknowledgement, as referenced above, prior to acceptance of the lien.

The SSD must use the attached form LDSS-5041: "Lien Acknowledgement" to comply with the provisions of SSL 106, if the SSD intends to pursue a lien. In addition, each applicant/recipient real property owner must be given a copy of the signed LDSS-5041: "Lien Acknowledgement".

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The attached LDSS-5041 form "Lien Acknowledgement" contains the required information plus types of payments to be recovered, time period of the recovery, when recovery will occur and consequences for non-compliance.

An LDSS-5041 form "Lien Acknowledgement" signed by a TA applicant or recipient for a specific parcel of real property is valid until the lien for that property is satisfied or discharged. SSDs must obtain a new signed LDSS-5041 form "Lien Acknowledgement" if a TA household obtains ownership of additional real property.

A Non-Parent Caregiver (NPC) who does not want to apply for TA or is not in receipt of TA must not be required to sign the LDSS-5041 form "Lien Acknowledgement".

The SSD must not recover any TA via execution of a lien unless the SSD appropriately obtained the LDSS-5041 form "Lien Acknowledgement" prior to acceptance of the lien.

If any applicant for or recipient of TA required to sign an LDSS-5041 form "Lien Acknowledgement" refuses, without good cause, to sign the form, and the SSD decides to pursue the lien, the SSD must use the incremental budgeting method. This budgeting method will result in the denial or discontinuance of assistance for a single individual household. Incremental budgeting methodology imposed in a multi-person household will remove the ineligible individual(s) from both the TA household (HH) and case (CA) count, which reduces the amount of the TA grant. See 01 INF-12: "Temporary Assistance Sanctions: Budgeting for TA and FS, Treatment of Income for FS when the TA Case Closes, and Medicaid Implications" on the implementation of incremental budgeting.

Remaining household members are eligible to receive TA if they are otherwise eligible.

SSDs must retain the LDSS-5041 form "Lien Acknowledgement" in the case record for six years after the lien has been satisfied or discharged. The LDSS-5041 form "Lien Acknowledgement" also must be available for reviews by this office.

In addition, effective May 30, 2014, SSL 106 provides that if a homeowner pursues a modification to the mortgage such as refinancing or a home equity loan and the SSD is a current lienholder, the SSD official may agree to the mortgage modification by subordinating the SSD's rights to the lien on the real property covered by the modification. This may be advantageous to both the applicant/recipient and the SSD in instances in which mortgage refinancing may allow the applicant/recipient to have lower monthly payments thereby having higher available monthly income. Additionally, mortgage refinancing may avert a foreclosure on the property thereby eliminating a potential housing crisis for the applicant/recipient. When the SSD agrees to subordinate a lien, the SSD retains its status as a secondary creditor on the property lien, while the bank or finance company is the primary creditor. If the SSD agrees to subordinate its right as a lien holder, the SSD must do so within 30 days of receipt of a written notice that the homeowner is attempting to modify his or her mortgage.

In accordance with 18 NYCRR 357.3, applicants/recipients may request access to their case record, including an accounting of the current amount of a lien, by providing written notice to the SSD.

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This form is in the process of being translated into all required languages and the translated versions will be posted on the OTDA Internet site. Once the translated forms are available online, SSDs must make applicants/recipients aware that translated versions are available and provide a translated version upon request.

An Administrative Directive will be forthcoming, which will address other changes in SSL 106 and provide further guidance to SSDs on real property lien policies and procedures.

## Lien Acknowledgement

Case Name:	Address of Real Property:
Case Number:	

Under New York State Social Services Law §106, a social services district may place a lien on your real property in order for you to receive Temporary Assistance. Temporary Assistance is a grant that you have to repay in whole or in part once you:

- sell or transfer ownership of your real property; and/or
- refinance or apply for a mortgage on your real property.

The social services district may use the lien to recover any Temporary Assistance grant paid to you, your household, or by voucher to a vendor on your behalf (e.g. direct payments to a landlord or utility company):

- for 10 years prior to the date you sign the lien; and
- on and after the date you sign the lien.

However, the lien cannot be used to recover any benefits provided under:

- Supplemental Nutrition Assistance Program (SNAP);
- Child Care Services;
- Emergency Assistance to Adults (EAA); or
- Home Energy Assistance Program (HEAP).

If you decide not to sign this document or not to provide a lien without good cause, the social services district may deny, reduce or discontinue your Temporary Assistance grant. However, the lien status will not adversely impact Temporary Assistance eligibility for household members who are not owners of the real property, including minor children, provided such household members are otherwise eligible.

If the social services district denies your application or reduces or discontinues your assistance, you have the right to a conference and/or a fair hearing to review the denial, reduction or discontinuance. The notice that you will receive upon such district action will include information on how to request a fair hearing.

You may dispose of a lien by paying off the amount owed.

If you pursue a modification to your mortgage, such as when refinancing or pursuing a home equity loan, you may request that the social services district subordinate its rights (e.g. make it easier for you to modify your mortgage or to get a home equity loan). If a social services district agrees to subordinate its lien on your real property, it must do so within 30 days of receiving your written request.

You may request an account statement at any time. To request that the social services district subordinate its rights, or to ask for an account statement, submit a written request to:

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You are entitled to a signed copy of this "Lien Acknowledgment".

Applicant/Recipient Signature \_\_\_\_\_

Date \_\_\_\_\_

Applicant/Recipient Signature \_\_\_\_\_

Date \_\_\_\_\_