

**OPINION NO. 90-016****Syllabus:**

Where the Registrar of Motor Vehicles has, pursuant to R.C. 4509.37, suspended the license, registration, or nonresident's operating privilege of a person for nonpayment of a judgment, as defined in R.C. 4509.02(A), R.C. 4509.40 requires that such suspension remain in effect either for seven years or until such person complies with the requirements of R.C. 4509.40 for the vacation of such order of suspension, whichever occurs first.

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**To: William M. Deniham, Director, Department of Highway Safety, Columbus, Ohio**

**By: Anthony J. Celebrezze, Jr., Attorney General, April 3, 1990**

I have before me your opinion request concerning the operation of R.C. 4509.40, part of the Ohio Motor Vehicle Financial Responsibility Act. You specifically ask whether: "a suspension for failure to pay a judgment rendered against a defendant for which the operating privileges and vehicle registration have been suspended under [R.C. 4509.37] automatically expires at the end of seven years, even though the judgment is alive and remains unpaid?"

As stated by the court in *City of Toledo v. Bernoir*, 18 Ohio St. 2d 94, 100, 247 N.E.2d 740, 744-45 (1969): "The goal of the Ohio Financial Responsibility Act is to promote safety and to provide a strong incentive for motorists to make themselves financially responsible." Under the Act, the Registrar of Motor Vehicles is given certain responsibilities for the enforcement of the Act. Your question specifically concerns the portion of the Act requiring the Registrar, upon receipt of a certified copy of a judgment, to suspend the license, registration, or nonresident's operating privilege of a person against whom a judgment has been rendered.<sup>1</sup> R.C. 4509.02(A) defines the term "judgment," as used in R.C. 4509.31-.67, as meaning:

any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action or an agreement of settlement for such damages.

There are, however, specific exceptions to the instances in which the Registrar may issue a suspension after receipt of a certified copy of a judgment, as defined in R.C. 4509.02(A). See, e.g., R.C. 4509.38 (waiver of suspension by judgment creditor); R.C. 4509.39 (no suspension when insurer obligated to pay judgment). R.C. 4509.37(B) also authorizes the Registrar, in certain instances, to impose the civil penalties specified in R.C. 4509.101(A)(2).<sup>2</sup>

The period for which a license, registration, or nonresident's operating privilege may be suspended is prescribed by R.C. 4509.40 which states:

Any license, registration, and nonresident's operating privilege suspended for nonpayment of a judgment shall remain so suspended for a period of seven years from the effective date of suspension, and while such order is in force no license, registration, or permit to operate a motor vehicle shall be issued in the name of such person, including any such person not previously licensed. The registrar shall vacate the order of suspension upon proof that such judgment is stayed, or satisfied in full or to the extent provided in [R.C. 4509.41], subject to the exemptions stated in [R.C. 4509.37-.39 and .42], and upon such person's filing with the registrar of motor vehicles evidence of financial responsibility in accordance with [R.C. 4509.45]. (Emphasis added.)

Pursuant to this provision, upon suspension, any license, registration or nonresident's operating privilege is so suspended for a definite time period, i.e., seven years.

<sup>1</sup> Pursuant to R.C. 4509.04, any order or act of the Registrar of Motor Vehicles, including orders made under R.C. 4509.37, is subject to judicial review under R.C. 119.12. See generally *Farrao v. Bureau of Motor Vehicles*, 46 Ohio App. 2d 120, 123, 346 N.E.2d 337, 339 (Ashland County 1975) ("[u]nder the provisions of R.C. 119.12, only in the absence of a finding that the decision and order of the bureau of motor vehicles is supported by reliable, probative, and substantial evidence and is in accordance with law can the court reverse, vacate or modify the order of the bureau or make another ruling that is supported by reliable, probative, and substantial evidence and is in accordance with the law"). For purposes of this opinion, however, I will limit my discussion to the vacation of an order issued under R.C. 4509.37 by operation of statute, rather than through judicial review.

<sup>2</sup> R.C. 4509.101(A)(2) sets forth civil penalties which may be imposed against a person who operates or permits the operation of a motor vehicle without the required proof of financial responsibility with respect to that vehicle or the operation of such vehicle.

Such order may be vacated prior to completion of the seven-year period, but only in those situations where the following two conditions apply – the judgment upon which the suspension was based is stayed or is satisfied in full or to the extent provided in R.C. 4509.41, and the person files proof of financial responsibility in accordance with R.C. 4509.45.<sup>3</sup> The language of R.C. 4509.40 is clear and, thus, not subject to interpretation. *See generally Slingluff v. Weaver*, 66 Ohio St. 621, 64 N.E. 574 (1902) (syllabus, paragraph two) ("if the words [of a statute are] free from ambiguity and doubt, and express plainly, clearly and distinctly, the sense of the law-making body, there is no occasion to resort to other means of interpretation").

It is, therefore, my opinion, and you are hereby advised, that where the Registrar of Motor Vehicles has, pursuant to R.C. 4509.37, suspended the license, registration, or nonresident's operating privilege of a person for nonpayment of a judgment, as defined in R.C. 4509.02(A), R.C. 4509.40 requires that such suspension remain in effect either for seven years or until such person complies with the requirements of R.C. 4509.40 for the vacation of such order of suspension, whichever occurs first.

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<sup>3</sup> I note, however, that the legislature has separately provided for situations where the judgment debtor arranges to pay such judgments in installments pursuant to R.C. 4509.42. Where the court has authorized the payment of a judgment in installments under R.C. 4509.42(A), division (B) of that statute sets forth the manner in which a suspension based on the nonpayment of a judgment may be avoided. Since your question does not contemplate such an arrangement, I will not address the operation of R.C. 4509.42.