

4123-14-04 Procedures to recover from a non-complying employer the amount of money paid out of the state insurance fund for an industrial injury, occupational disease and/or death.

- (A) Upon the filing of a workers' compensation claim, naming a non-complying employer as the employer, the attorney general's office shall prepare and the bureau shall, by certified mail, file for record in the office of the county recorder in any counties where the employer's property is located, if known, or in any counties where the employer's business is located, an affidavit showing the date on which the application for compensation or benefits was filed, the name and address of the employer against whom it was filed, and the fact that said employer has not complied with section 4123.35 of the Revised Code. A copy of the application for compensation or benefits shall be filed with the affidavit. The affidavit shall constitute a lien on employer's real property and tangible personal property within each county where it was filed.
- (B) The bureau shall notify the employer, by mail and within the shortest time possible, of the filing of the application. Such notice shall be accompanied by a copy of the application and a copy of the affidavit, as described in paragraph (A) of this rule, and shall advise the employer that unless it files a timely answer to the application, the claim will be adjudicated upon the filed application.
- (C) The employer, or its agent or attorney, shall verify its answer. Upon filing of such answer, the bureau shall immediately mail a copy of the answer to the employee. If the employee is represented, the bureau shall mail a copy to the representative.
- (D) The lien on employer's property, as described in paragraph (A) of this rule, shall be cancelled under the following circumstances:
- (1) The employer has paid the amount of all awards made by the commission and/or the bureau;
 - (2) There was a final order of disallowance of a claim;
 - (3) The employer has filed a bond or other security in such an amount and with such a surety as the bureau approves, conditioned on the employer's payment of all awards made by the commission and/or the bureau. The bureau may, in its discretion, grant a partial release of the lien, should this be necessary to facilitate the conduct of the employer's business, provided a sufficient security remains to pay any award that may be made in the claim;
 - (4) Settlement of employer's liability as provided in rule 4123-14-05 of the Administrative Code;;
 - (5) The bureau, industrial commission, or court has determined that the employer subject to the lien is not the employer of record in the claim.
- (E) In all cases of an employer's failure to pay the award of compensation or benefits, as approved by the industrial commission or the bureau, or to furnish a satisfactory bond within ten days after notification of such award, payment of the award from the surplus fund and the recovery of the monies so paid by the bureau shall be in accordance with section 4123.75 of the Revised Code.
- (F) The award of compensation or benefits, referred to in paragraph (D) of this rule, shall constitute a liquidated claim for damages against the non-complying employer. The bureau shall certify the record to the attorney general to institute a civil action against the employer for collection of the award. Such action may be joined

with the action to recover premium due from such employer.

Effective: 12/13/14

Prior Effective Dates: 11/26/79, 12/18/89 (Emer.), 2/22/90