

4123-14-02 Procedures for the collection of premiums from non-complying employers.

- (A) Whenever the bureau of workers' compensation finds that an employer that was subject to division (B)(2) of section 4123.01 of the Revised Code failed to comply with the law in matters of workers' compensation coverage, the bureau shall notify the employer in writing of such a finding. The notice shall outline the period of time during which the employer was an amenable employer, and shall specify that the employer has twenty days from the service of the notice to pay the applicable premium or penalty as required by law.
- (B) If the employer does not pay the applicable premium or penalty within the twenty day period referred to in paragraph (A) of this rule, the bureau or its authorized agent shall immediately make an assessment of the amount due from the employer, in accordance with sections 4123.32 and 4123.37 of the Revised Code. The assessment shall be based on such information as may be in the possession of the bureau.
- (C) The bureau or its authorized agent shall give the employer written notice of any action taken. The notice shall be mailed to the employer at its residence or usual place of business by certified mail with return receipt requested. The notice shall inform the employer that unless it files with the bureau within twenty days after receipt of the notice, a petition for reassessment in writing, verified under oath by the employer, or its authorized agent having knowledge of the facts, setting forth in detail the items of the assessment objected to and the reason for the objection, the assessment shall become final and the amount thereof shall be due and payable from the employer so assessed to the state insurance fund.
- (D) The bureau or its authorized agent, under the authority of section 4123.78 of the Revised Code, shall file with the county recorder of any counties in which such employer's property may be located a certificate of the amount of premium and penalty due from such employer and the amount due shall be a lien from the date of filing against the real and personal property of the employer within each county in which such certificate is filed.
- (E) In the event a petition objecting to the assessment is duly filed by the employer, the bureau shall reexamine the assessment. The matter shall then be referred to the administrator of workers' compensation, who may refer the matter to be set for a hearing before the bureau of workers' compensation adjudicating committee. The notice of hearing shall be mailed to the petitioner by certified mail and to its representative, setting forth the date, time and place of the hearing. It will be mailed to the parties, as indicated above, not less than fourteen days before the date of such a hearing. In justifiable cases an emergency hearing may be arranged.
- (F) A copy of the administrator's finding and order shall be mailed by certified mail to the party assessed and by regular mail to the representative of such a party.
- (G) If the administrator orders the employer to pay the assessment, payment shall become due ten days after the notice of the finding and order of the administrator was mailed to such employer.
- (H) The employer has the right to appeal the administrator's decision to the court of common pleas of Franklin county upon the execution of a bond to the state in double the amount due and ordered paid by the bureau, upon the condition that the employer will pay any judgment and costs rendered against it for the premium, as provided in section 4123.37 of the Revised Code.
- (I) When no petition objecting to the assessment is filed or when a finding is made affirming or modifying such an assessment after hearing, a certified copy of the assessment, as affirmed or modified, shall be filed by the bureau not later than twenty days from the date the order has become final, with the clerk of the common pleas court in any county in which the employer has property or in which the employer has a place of business, for the purpose of obtaining a judgment for the state against the employer in the amount shown on

the assessment. As soon as the judgment is rendered, proper action shall be taken to levy execution on said judgment.

- (J) However, an assessment or judgment, as outlined in the preceding paragraphs of this rule, shall not be a bar to the adjustment of the employer's account upon the employer furnishing his payroll records to the bureau.
- (K) In addition to the procedures outlined in paragraphs (A) to (I) of this rule, the administrator of the bureau shall, in justifiable cases, certify the matter to the attorney general's office with a request that the employer be enjoined from further operation in accordance with section 4123.79 of the Revised Code and/or that criminal proceedings be instituted against the employer for penalties under division (C) of section 4123.99 of the Revised Code. Furthermore, in cases where the employer failed to furnish to the bureau the annual payroll report and other related information required by section 4123.26 of the Revised Code, a civil action shall be brought against such employer in the name of the state to collect the penalty, as provided in that section.
- (L) For counties and public employer taxing districts, the bureau shall keep an individual account showing the amount of money paid into the public insurance fund and the amount of losses incurred against the fund. When any such employer defaults in the payment of sums required to be contributed to such fund or any official fails to perform any act required to be performed in reference to the making of payments, the bureau shall institute the proper proceedings in the court to compel such payment.

Effective: 7/1/16

Prior effective dates: 11/26/79, 12/18/89 (Emer.), 2/22/90, 12/14/92, 10/1/09, 12/13/14