

**871—23.65 (96) Liens for unpaid contributions, interest, and penalties.****23.65(1)** Filing of liens and notice of jeopardy assessments.

*a.* If reports are filed by an employer for the purpose of determining the amount of contribution due, or an assessment of contribution due, and the employer fails to pay any part of the contributions, interest and penalties due as determined by the report or assessment, Form 68-0043, Notice of Assessment and Lien, will be sent to the employer.

*b.* If, 30 days after a Notice of Assessment and Lien, or a Notice of Jeopardy Assessment has been served (see subrule 23.59(2)) and the employer has failed to make payment in full of the amounts that were assessed, the department may file a lien with the county recorder of the county in which the employer has its principal place of business, or with the county recorder of any county in which the employer has real or personal property.

*c.* The lien, known as a Form 68-0024, Notice of Lien, shall state the date of assessment, the employer's name, address and account number, and the amount due. The recorder shall record the Notice of Lien as provided in Iowa Code section 96.14(3).

**23.65(2)** When the Notice of Lien is duly filed and recorded, the amount stated shall be a lien upon the entire interest of the employer, legal or equitable, in any real property, and upon any personal property, tangible or intangible, located in any county where the Notice of Lien or copy is filed.

**23.65(3)** As provided in Iowa Code section 96.14(3), the lien shall attach as of the date the assessment is mailed or personally served upon the employer.

**23.65(4)** The transfer, through sale, exchange, or other method, of a major portion of the assets of a delinquent employer shall not defeat or impair the lien in favor of the department, and the person acquiring such assets shall be held liable for payment of all delinquent contributions, interest, and penalties due from the delinquent employer. The department shall be made a party to any foreclosure action involving any real or personal property against which the department has or may claim a lien.

**23.65(5)** Liens against out-of-state employers and resident employers who remove themselves from the state of Iowa may be obtained in accordance with section 96.14(6).

**23.65(6)** The department may, at its discretion and in accordance with Iowa Code section 96.14(3), make an assessment and file a lien in the recorder's office in the county or state where the employer resides. Liens shall be recorded in accordance with the law governing liens in the state where filed, and the costs shall be borne by the employer.

**23.65(7)** No employment security lien(s) shall be released without payment of the contributions secured except as follows:

*a.* It is shown to the department's satisfaction that the lien(s) was filed in error. If this is shown, the lien shall be at the expense of the department.

*b.* Release of the lien(s) is ordered by a judge having jurisdiction over same.

*c.* A release is necessary to facilitate payment to the department from proceeds of sale in an equity action.

*d.* A foreclosure action has been initiated by a secured creditor and it is demonstrated to the department's satisfaction all of the following:

(1) The lien of the secured creditor is properly perfected and is senior to the employment security lien.

(2) The property, both real and personal, does not exceed in value the amount of the secured lien on which the foreclosure is taken.

**23.65(8)** In such cases, the department may release its lien(s) but such release shall be only in respect to the property foreclosed upon by the secured creditor.

**23.65(9)** Interest and penalty secured by a lien may be compromised by the department at its discretion.

**23.65(10)** Upon payment of contributions, interest, penalty, and costs, the department shall execute a Form 68-0199, Satisfaction of Lien, by filing it with the recorder's office for the county where the lien was filed. A copy of this satisfaction shall be mailed to the employer.

This rule is intended to implement Iowa Code section 96.14(3).