

424.11 Environmental protection charge lien — collection — action authorized.

1. *a.* Whenever a person liable to pay a charge refuses or neglects to pay the charge, the amount, including any interest, penalty, or addition to the charge, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to that person.

b. The environmental protection charge lien shall attach at the time the charge becomes due and payable and shall continue for ten years from the time the lien attaches unless sooner released or otherwise discharged. The lien may be extended, within ten years from the date the lien attaches, by filing for record a notice with the appropriate county official of the appropriate county and from the time of such filing, the lien shall be extended to the property in such county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions. The director shall charge off any account whose lien is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines under uniform rules adopted by the board that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

2. *a.* In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the director shall file with the recorder of the county in which the property is located a notice of the lien.

b. The recorder shall endorse on each notice of lien the day, hour, and minute when filed for recording and the document reference number, and shall preserve the notice. The recorder shall also immediately index the notice and record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time of its indexing.

c. The department shall pay recording fees as provided in section 331.604, for the recording of the lien, or for its satisfaction.

3. Upon the payment of a charge as to which the director has filed notice with a county recorder, the director shall immediately file with the recorder a satisfaction of the charge and the recorder shall enter the satisfaction on the notice on file in the recorder's office and indicate that fact on the index.

4. *a.* The department shall proceed, substantially as provided in this chapter, to collect all charges and penalties as soon as practicable after the same become delinquent, except that no property of the depositor shall be exempt from the payment of the charge. In the event service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by the officer, the authorized revenue agents of the department are hereby empowered to serve and make return of the warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedure shall be in compliance with chapter 626.

b. The attorney general shall, upon the request of the director, bring an action at law or in equity, as the facts may justify, without bond, to enforce payment of any charges and penalties, and in such action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

5. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the director or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

89 Acts, ch 131, §23; 2002 Acts, ch 1113, §7, 8; 2009 Acts, ch 27, §15