

TITLE 45
LIENS, MORTGAGES AND PLEDGES

CHAPTER 19
STATE LIENS

45-1901. PURPOSE AND SCOPE. (1) The purpose of this chapter is to provide a system for filing notices of liens in favor of or enforced by the state of Idaho with the office of the secretary of state.

(2) The scope of this chapter is limited to liens in the real and personal property of:

(a) Taxpayers or other persons against whom the state tax commission has liens pursuant to [title 63](#), Idaho Code, for unpaid personal or corporation income tax, sales tax, employee withholding taxes, fuel tax, or any other amounts due under statutes administered by the commission, plus interest, penalties and additional amounts;

(b) Persons against whom the department of labor has liens pursuant to [chapter 13, title 72](#), Idaho Code, for unpaid employment security contributions, plus interest and penalties;

(c) Persons liable for overpayment of benefits against whom the department of labor has liens pursuant to [chapter 13, title 72](#), Idaho Code, for overpayment of benefits, plus interest;

(d) Persons against whom the department of labor has liens for wage claims pursuant to [chapter 6, title 45](#), Idaho Code;

(e) Individuals who are subject to liens for child support delinquency pursuant to [chapter 12, title 7](#), Idaho Code; and

(f) Individuals who are subject to liens pursuant to [chapter 2, title 56](#), Idaho Code, for medical assistance, or the estates of such individuals.

[45-1901, added 1997, ch. 205, sec. 1, p. 607; am. 1999, ch. 51, sec. 25, p. 128.]

45-1902. DEFINITIONS. (1) "Debtor" means a taxpayer or other person against whom there is a final unpaid tax assessment collectible by the state tax commission, a person against whom the department of labor has a lien for a wage claim, unpaid contributions or overpayment of benefits, an individual who is subject to a lien for child support delinquency, or an individual who is subject to a lien for medical assistance.

(2) "Delivered" means transmission to and receipt by the secretary of state of a notice of lien or other notice in any medium to which the filing agency and the secretary of state have agreed.

(3) "Filing agency" means the state tax commission, the department of labor or the department of health and welfare.

(4) "Person" means an individual, organization or legal entity.

[45-1902, added 1997, ch. 205, sec. 1, p. 608; am. 1999, ch. 51, sec. 26, p. 128.]

45-1903. CREATION OF LIEN -- ATTACHMENT. Creation and attachment of liens for which notices are filed pursuant to this chapter are governed by the provisions of chapter 6 of [title 45](#), [title 63](#), chapter 13 of [title 72](#), chapter 12 of [title 7](#), and chapter 2 of [title 56](#), Idaho Code.

[45-1903, added 1997, ch. 205, sec. 1, p. 608; am. 1999, ch. 51, sec. 27, p. 129.]

45-1904. NOTICE OF LIEN -- CONTENT -- DELIVERY. (1) The notice of lien shall include:

- (a) The name and last known address of the debtor;
- (b) The name and address of the filing agency;
- (c) The basis for the lien, including, but not limited to, income tax, sales tax, employment security contributions, payments in lieu of contributions, overpayment of benefits, wage claims, a child support delinquency or medical assistance;
- (d) Such other information as may be required by the relevant provisions under which the lien was created and attached, or as may be agreed by the filing agency and the secretary of state.

(2) The notice of lien will be delivered to and receipt will be acknowledged by the secretary of state in a medium and format to which the filing agency and the secretary of state have agreed.

(3) Each notice of lien shall be authenticated by the filing agency in a manner to which the filing agency and the secretary of state have agreed.

(4) A notice of lien is filed when it complies with subsection (1) of this section and has been delivered to and receipt acknowledged by the secretary of state.

[45-1904, added 1997, ch. 205, sec. 1, p. 608; am. 1999, ch. 51, sec. 28, p. 129.]

45-1905. EFFECT OF NOTICE -- PRIORITY. (1) When a notice of lien is filed, the state lien is perfected in all of the existing and after-acquired property of the debtor, both real and personal, tangible and intangible, to which the lien attaches pursuant to the relevant provisions of chapter 6 of [title 45](#), [title 63](#), chapter 13 of [title 72](#), chapter 12 of [title 7](#), or chapter 2 of [title 56](#), Idaho Code.

(2) As to personal property, the perfected lien shall have the same priority as a security interest which becomes perfected under [chapter 9, title 28](#), Idaho Code, at the same time the notice of lien is filed.

(3) As to real property, the perfected lien shall have the same priority as a mortgage which is recorded at the same time the notice of lien is filed.

(4) Nothing herein limits the authority of the state tax commission to subordinate its lien to another lien in the manner provided by section [63-3055](#), Idaho Code.

[45-1905, added 1997, ch. 205, sec. 1, p. 609; am. 1999, ch. 51, sec. 29, p. 129.]

45-1906. DURATION OF NOTICE -- LAPSE -- CONTINUATION. (1) Except as provided in subsection (2) of this section, a notice of lien is effective for a period of five (5) years from the date of filing, unless sooner released by the filing agency. Effectiveness of the notice of lien lapses on the expiration of the five (5) year period unless a notice of continuation is filed prior to the lapse.

(2) A notice of lien for child support delinquency is effective until a notice of release of lien is filed by the department of health and welfare.

(3) Upon release or lapse of the notice's effectiveness, the state lien becomes unperfected. In that case, the lien is deemed to have been unper-

fects as against a person who became a purchaser or lien creditor before the release or lapse.

(4) Except as to notices of lien filed pursuant to subsection (2) of this section, a notice of continuation of effectiveness of the notice of lien may be filed by the filing agency within six (6) months prior to the expiration of the five (5) year period specified in subsection (1) of this section. The notice of continuation will be delivered to and receipt acknowledged by the secretary of state in a medium and format to which the filing agency and the secretary of state have agreed, and shall be authenticated by the filing agency in a manner to which the filing agency and the secretary of state have agreed. Upon filing of the notice of continuation, the effectiveness of the original notice of lien is continued for five (5) years after the last date to which the notice of lien was effective, whereupon it lapses unless another notice of continuation is filed prior to such lapse.

[45-1906, added 1997, ch. 205, sec. 1, p. 609.]

45-1907. AMENDMENT OF NOTICE OF LIEN. (1) The filing agency may amend a notice of lien in any respect by filing a notice of amendment with the secretary of state.

(2) The notice of amendment shall identify the notice of lien to which it relates, and it shall include such information and be in such medium and format as agreed by the filing agency and the secretary of state.

(3) The requirements for delivery, acknowledgment of receipt and authentication of a notice of amendment shall be the same as those prescribed for a notice of lien in section [45-1904](#), Idaho Code.

(4) The filing of a notice of amendment does not extend the period of effectiveness of the notice of lien to which it relates.

[45-1907, added 1997, ch. 205, sec. 1, p. 609.]

45-1908. DUTY OF FILING AGENCY TO RELEASE UPON SATISFACTION. (1) Except as to a state lien for child support delinquency, when a state lien has been satisfied, the filing agency shall, within thirty (30) days after satisfaction, file with the secretary of state a notice of release of lien.

(2) As to a state lien for child support delinquency, the department of health and welfare shall file a notice of release of lien within thirty (30) days after:

- (a) The delinquency has been satisfied; or
- (b) The underlying lien is no longer valid.

(3) The notice of release will be delivered to and receipt acknowledged by the secretary of state in a medium and format to which the filing agency and the secretary of state have agreed, and shall be authenticated by the filing agency in a manner to which the filing agency and the secretary of state have agreed.

[45-1908, added 1997, ch. 205, sec. 1, p. 610.]

45-1909. DUTIES OF SECRETARY OF STATE. (1) The secretary of state shall maintain notices of state lien in his information management system in a form that permits them to be reduced to written form.

(2) The secretary of state will provide information concerning state liens on the same conditions and in the same form as he provides information on financing statements pursuant to section [28-9-523](#), Idaho Code.

(3) The secretary of state will compile and publish a list of all effective notices of state lien which the filing agencies have identified as pertaining to debtors who are agricultural producers. The list will be published on the same schedule and conditions as the list of liens in farm crops which is published pursuant to section [45-312](#), Idaho Code. The list of notices of state lien may be appended to the list of liens in farm crops, and no fee shall be charged in addition to the fee for the list of liens in farm crops. Failure of a filing agency to identify a debtor as an agricultural producer shall not adversely affect perfection of a state lien for any purpose.

[45-1909, added 1997, ch. 205, sec. 1, p. 610; am. 2001, ch. 208, sec. 28, p. 827.]

45-1910. EFFECTIVE DATE AND TRANSITION. (1) This chapter shall be in full force and effect for all notices of state lien which are filed on or after July 1, 1998.

(2) Except for notices of state lien for child support delinquency, the transition period for filing notices of state lien shall begin on January 1, 1998, and end on June 30, 1998. The following conditions shall apply to notices which were filed or recorded before January 1, 1998, and to notices filed during the transition period:

(a) A notice of state lien which was recorded with a county recorder between January 1, 1993, and June 30, 1993, shall lapse on the fifth anniversary of the recording date, unless the filing agency records a notice of renewal with the recorder prior to the lapse and files a notice of transition and continuation with the secretary of state before July 1, 1998. A notice of transition and continuation shall include all of the information required by section [45-1904](#), Idaho Code, the date of the recording of the original notice with the county recorder, and a statement that the effectiveness of the notice is to be continued for another five (5) year period. In the event the filing agency files a notice of transition and continuation, the effectiveness of the notice of state lien shall lapse on the tenth anniversary of the original recording date, unless the filing agency files a further notice of continuation as required by section [45-1906](#)(4), Idaho Code.

(b) A notice of state lien which was recorded with a county recorder between July 1, 1993, and December 31, 1997, will remain effective beyond June 30, 1998, only if a filing agency files a notice of transition with the secretary of state during the transition period. A notice of transition shall include all of the information required by section [45-1904](#), Idaho Code, and the date of the recording of the original notice with the county recorder. After a notice of transition has been filed, the effectiveness of the notice of state lien shall lapse on the fifth anniversary of the date of the recording with the county recorder, unless the filing agency files a notice of continuation as required by section [45-1906](#)(4), Idaho Code.

(c) A notice of state lien which is first filed during the transition period shall be fully effective during the transition period only if the filing agency has filed a notice with the secretary of state and recorded a notice with the appropriate county recorder. A notice of state lien which is filed with the secretary of state during the transition period, and which is not recorded with the county recorder, shall be fully effective on and after July 1, 1998, and shall be effective

before that date against any party with actual notice after the date of filing. A notice of state lien which is recorded with a county recorder during the transition period, but not filed with the secretary of state, shall be fully effective through June 30, 1998. A notice of state lien first filed during the transition period shall lapse on the fifth anniversary of the date of filing with the secretary of state, unless the filing agency files a notice of continuation as required by section [45-1906](#) (4), Idaho Code.

(3) The effectiveness of a notice of state lien for child support delinquency which was recorded with a county recorder shall lapse on July 1, 1998, unless a notice of transition is filed with the secretary of state on or before July 1, 1998. If a notice of transition is filed, the notice of state lien will remain effective until a notice of release is filed pursuant to section [45-1908](#) (2), Idaho Code.

(4) A notice of state lien on record with a county recorder before July 1, 1998, and not previously lapsed or released, shall be deemed to have lapsed on July 1, 1998, and shall be null, void and of no further force and effect.

(5) A notice of state lien transitioned to the secretary of state will remain in effect on the records of the secretary of state pursuant to the procedures of section [45-1906](#), Idaho Code, despite having lapsed with the county recorder under the preceding section [subsection].

(6) Notwithstanding the provisions of section [45-1905](#), Idaho Code, a state lien which was perfected under a prior law and transitioned to perfection under this chapter without a break in perfection shall have priority as if it had been filed under this chapter on the date of its original perfection under the prior law.

[45-1910, added 1997, ch. 205, sec. 1, p. 610; am. 2012, ch. 183, sec. 1, p. 485.]