

TITLE 45
LIENS, MORTGAGES AND PLEDGES

CHAPTER 6
CLAIMS FOR WAGES

45-601. DEFINITIONS. Whenever used in this chapter:

- (1) "Claimant" means an employee who filed a wage claim with the department in accordance with this chapter and as the director may prescribe.
- (2) "Department" means the department of labor.
- (3) "Director" means the director of the department of labor.
- (4) "Employee" means any person suffered or permitted to work by an employer.
- (5) "Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person.
- (6) "Wage claim" means an employee's claim against an employer for compensation for the employee's own personal services, and includes any wages, penalties, or damages provided by law to employees with a claim for unpaid wages.
- (7) "Wages" means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece or commission basis.

[(45-601) I.C., sec. 45-609, as added by 1967, ch. 436, sec. 1, p. 1469; am. 1974, ch. 39, sec. 72, p. 1023; am. and redesignated 45-601, 1989, ch. 280, sec. 1, p. 678; am. 1996, ch. 421, sec. 34, p. 1429; am. 1999, ch. 51, sec. 2, p. 116.]

45-602. WAGES OF EMPLOYEES PREFERRED. In all assignments of property made by any person to trustees or assignees, or in proceedings in insolvency, an employee's wages for services rendered within sixty (60) days preceding such assignment, not exceeding five hundred dollars (\$500), is a preferred claim, and must be paid by such trustees or assignees before any creditor or creditors of the assignor or insolvent debtor; provided, that whenever any such employee has filed a notice of lien against any property of the assignor, the employee may elect between the provisions of this section and the employee's lien.

[(45-602) 1893, p. 49, ch. 4, sec. 1; reen. 1899, p. 147, ch. 4, sec. 1; reen. R.C. & C.L., sec. 5145; C.S., sec. 7376; I.C.A., sec. 44-601; am. and redesignated 45-602, 1989, ch. 280, sec. 2, p. 678; am. 1999, ch. 51, sec. 3, p. 116.]

45-603. PREFERENCE OF WAGES -- DEATH OF EMPLOYER. In case of the death of any employer, the wages of each employee for services rendered within the sixty (60) days preceding the death of the employer, not exceeding five hundred dollars (\$500), rank in priority next after the funeral expenses, expenses of the last sickness, the charges and expenses of administering the estate, and the allowance of the surviving spouse and minor children, and must be paid before any other claims against the estate of the deceased person.

[(45-603) 1893, p. 49, ch. 4, sec. 2; reen. 1899, p. 147, ch. 4, sec. 2; reen. R.C. & C.L., sec. 5146; C.S., sec. 7377; I.C.A., sec. 44-602; am. and redesignated 45-603, 1989, ch. 280, sec. 3, p. 678; am. 1999, ch. 51, sec. 4, p. 117.]

45-604. PREFERENCE OF WAGES ON EXECUTION AND ATTACHMENT. In cases of executions, attachments and writs of similar nature, issued against any person or his property, except for claims for labor done, any employee who has claims against the defendant for labor done upon the property levied on, may give notice of their claim and the amount thereof, sworn to by the person making the claim, to the creditor or the creditor's agent or attorney and to the officer executing any of such writs, at any time before the actual sale of the property levied upon; and, unless such claim is disputed by the debtor or creditor, such officer must pay to such person out of the proceeds of the sale of any property on which such person has bestowed labor, the amount such person is entitled to receive for his services rendered within the sixty (60) days preceding the levy of the writ. If any or all other claims so presented and claiming preference under this section are disputed by either the debtor or a creditor, the person presenting the same must commence an action within ten (10) days for the recovery thereof, and must prosecute the action with due diligence or be forever barred from any claim of priority of payment thereof, and the officer shall retain possession of so much of the proceeds of the sale as may be necessary to satisfy such claim until the determination of such action, and in case judgment be had for the claim or any part thereof, carrying costs, the costs taxable therein shall likewise be a preferred claim with the same rank as the original claim.

[(45-604) 1893, p. 49, ch. 4, sec. 3; reen. 1899, p. 147, ch. 4, sec. 3; reen. R.C. & C.L., sec. 5147; C.S., sec. 7378; I.C.A., sec. 44-603; redesignated 45-604, 1989, ch. 280, sec. 4, p. 678; am. 1999, ch. 51, sec. 5, p. 117.]

45-605. DEBTOR OR CREDITOR MAY DISPUTE CLAIM. The debtor or creditor intending to dispute a claim presented under the provisions of section [45-604](#), Idaho Code, shall, within ten (10) days after receiving notice of such claim, serve upon the claimant and the officer executing the writ, a statement in writing, verified by the oath of the debtor, or his agent or attorney, or the oath of the person disputing such claim, or his agent or attorney, setting forth that no part of said claim, or not exceeding a sum specified, is justly due from the debtor to the claimant for services rendered within the sixty (60) days preceding the levy of the writ. If the claimant brings suit on a claim which is disputed in part only, and fails to recover a sum exceeding that which was admitted to be due, the claimant shall not recover costs, but costs shall be adjudged against the claimant.

[(45-605) 1893, p. 49, ch. 4, sec. 4; reen. 1899, p. 147, ch. 4, sec. 4; reen. R.C. & C.L., sec. 5148; C.S., sec. 7379; I.C.A., sec. 44-604; redesignated 45-605, 1989, ch. 280, sec. 5, p. 679; am. 1999, ch. 51, sec. 6, p. 118.]

45-606. PAYMENT OF WAGES UPON SEPARATION FROM EMPLOYMENT. (1) Upon lay-off, or upon termination of employment by either the employer or employee, the employer shall pay or make available at the usual place of payment all wages then due the employee by the earlier of the next regularly scheduled

payday or within ten (10) days of such layoff or termination, weekends and holidays excluded. However, if the employee makes written request upon the employer for earlier payment of wages, all wages then due the employee shall be paid within forty-eight (48) hours of the receipt of such request, weekends and holidays excluded.

(2) Unless exempt from the minimum wage requirements of [chapter 15, title 44](#), Idaho Code, employees who are not being paid on an hourly or salary basis must be paid at least the applicable minimum wage for all hours worked in the pay period immediately preceding layoff or termination from employment. The minimum wage payment shall be made within the same time limitations provided for in subsection (1) of this section. Any additional wages owed to employees shall be paid by the next regularly schedule payday.

(3) The director may, upon application showing good and sufficient reasons, grant an employer a temporary extension to any time limitation provided in this section.

[45-606, added 1989, ch. 280, sec. 7, p. 679; am. 1996, ch. 421, sec. 35, p. 1429; am. 1999, ch. 51, sec. 7, p. 118.]

45-607. PENALTY FOR FAILURE TO PAY. Whenever an employer fails to pay all wages then due an employee at the times due under section [45-606](#), Idaho Code, then the employee's wages shall continue at the same rate as if services had been rendered in the manner as last employed until paid in full or for fifteen (15) days, whichever is less. However, in no event can the maximum penalty exceed seven hundred fifty dollars (\$750), and if the full amount of the wages are paid prior to the filing of a lien pursuant to section [45-620](#), Idaho Code, the maximum penalty shall not exceed five hundred dollars (\$500).

Any employee who secretes or absents himself to avoid payment, or refuses to receive payment when made available as provided for in section [45-606](#), Idaho Code, shall not be entitled to any penalty under this chapter.

[(45-607) 1911, ch. 170, sec. 2, p. 565; reen. C.L., sec. 5148c; C.S., sec. 7382; I.C.A., sec. 44-607; am. 1989, ch. 280, sec. 8, p. 680; am. 1996, ch. 165, sec. 1, p. 547; am. 1999, ch. 51, sec. 8, p. 118.]

45-608. PAY PERIODS -- PENALTY. (1) Employers shall pay all wages due to their employees at least once during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States or with checks on banks where suitable arrangements are made for the cashing of such checks without charge to the employee. Nothing contained herein shall prohibit an employer from depositing wages due or to become due or an advance of wages to be earned in an account in a bank, savings and loan association or credit union of the employee's choice, provided that the employee has voluntarily authorized such deposit. If the employee revokes such authorization for deposit, it shall be deemed terminated and the provisions herein relating to the payment of wages shall apply.

(2) The end of the pay period for which payment is made on a regular payday shall be not more than fifteen (15) days before such regular payday; provided that if the regular payday falls on a nonworkday payment shall be made on a preceding workday.

(3) The director may, upon application showing good and sufficient reasons, permit an employer to withhold payment of wages more than the fifteen (15) day period as specified in subsection (2) of this section.

(4) The director may, pursuant to his authority, levy a civil penalty upon any employer who has failed to obtain the exemption provided in subsection (3) of this section and who has been determined to have undertaken a consistent pattern of untimely payment of wages to his employees. Such penalty shall not exceed five hundred dollars (\$500) for such employer per pay period.

[(45-608) I.C., sec. 45-610, as added by 1967, ch. 436, sec. 2, p. 1469; am. 1974, ch. 39, sec. 73, p. 1023; am. 1985, ch. 132, sec. 1, p. 326; am. and redesignated 45-608, 1989, ch. 280, sec. 9, p. 680; am. 1999, ch. 51, sec. 9, p. 119.]

45-609. WITHHOLDING OF WAGES. (1) No employer may withhold or divert any portion of an employee's wages unless:

(a) The employer is required or empowered to do so by state or federal law; or

(b) The employer has a written authorization from the employee for deductions for a lawful purpose.

(2) An employer shall furnish each employee with a statement of deductions made from the employee's wages for each pay period such deductions are made. The willful failure of any employer to comply with the provisions of this subsection shall constitute a misdemeanor.

[(45-609) I.C., sec. 45-611, as added by 1967, ch. 436, sec. 3, p. 1469; am. and redesignated 45-609, 1989, ch. 280, sec. 10, p. 681; am. 1999, ch. 51, sec. 10, p. 119.]

45-610. RECORDS TO BE KEPT BY EMPLOYER -- NOTICE TO EMPLOYEES. (1) Employment records must be maintained for a minimum period of three (3) years from the last date of the employee's service.

(2) Every employer shall give notice to its employees at the time of hiring of the rate of pay and the usual day of payment, and shall provide such information in writing to the employee upon the employee's request.

(3) Every employer shall give notice to its employees of any reduction in wages prior to the work being performed and shall provide such information in writing to the employee upon the employee's request.

[45-610, added 1989, ch. 280, sec. 11, p. 681; am. 1999, ch. 51, sec. 11, p. 120.]

45-611. WAGES THAT ARE IN DISPUTE. (1) In case of a dispute as to the amount of wages due an employee, the employer shall pay, without condition and within the time set by this chapter, all wages, or parts thereof, conceded by the employer to be due, leaving to the employee all remedies the employee might otherwise be entitled to, including those provided under this chapter, as to any balance claimed. Whenever an employer pays all wages not in dispute within the time limits set forth in section [45-606](#), Idaho Code, no penalties may be assessed under this chapter, unless it can be shown that the remaining balance of wages due were withheld willfully, arbitrarily and without just cause.

(2) The acceptance by an employee of a check with any restrictive endorsement as payment under this section shall not constitute a release or accord and satisfaction with respect to the disputed amount.

[45-611, added 1989, ch. 280, sec. 12, p. 681; am. 1999, ch. 51, sec. 12, p. 120.]

45-612. FILING FALSE CLAIM -- PENALTY. (1) Any person making a false claim for wages or other compensation under this chapter, knowing the same to be false, shall be guilty of a misdemeanor and shall be punishable by confinement in the county jail for a period not to exceed six (6) months, or by a fine, not to exceed one thousand dollars (\$1,000), or both.

(2) Any employee initiating a civil proceeding to collect unpaid wages or other compensation, which is based in whole or in part on a false claim which the employee knew to be false at the time the employee brought the action, shall be liable for attorney's fees and costs incurred by the employer in defending against the false claim. Proof of a criminal conviction under subsection (1) of this section shall not be required for recovery of the fees and costs provided for in this subsection.

[45-612, added 1996, ch. 89, sec. 1, p. 270; am. 1999, ch. 51, sec. 13, p. 120.]

45-613. DISCHARGING OR RETALIATING AGAINST EMPLOYEES ASSERTING RIGHTS UNDER THIS CHAPTER. No employer shall discharge or in any other manner retaliate against any employee because that employee has made a complaint to the employer, or to the department, or filed suit alleging that the employee has not been paid in accordance with the provisions of this chapter, or because the employee has testified or may be about to testify in an investigation or hearing undertaken by the department. The provisions of this section shall not be construed to otherwise restrict the discipline or termination of an employee.

[45-613, added 1989, ch. 280, sec. 14, p. 682; am. 1996, ch. 421, sec. 36, p. 1429; am. 1999, ch. 51, sec. 14, p. 121.]

45-614. COLLECTION OF WAGES -- LIMITATIONS. Any person shall have the right to collect wages, penalties and liquidated damages provided by any law or pursuant to a contract of employment, but any action thereon shall be filed either with the department or commenced in a court of competent jurisdiction within two (2) years after the cause of action accrued, provided, however, that in the event salary or wages have been paid to any employee and such employee claims additional salary, wages, penalties or liquidated damages, because of work done or services performed during his employment for the pay period covered by said payment, any action therefor shall be commenced within twelve (12) months from the accrual of the cause of action. It is further provided that if any such cause of action has accrued prior to the effective date of this act, and is not barred by existing law, action thereon may be commenced within six (6) months from the effective date of this act. In the event an action is not commenced as herein provided, any remedy on the cause of action shall be forever barred.

[(45-614) I.C.A., sec. 44-608, added 1947, ch. 36, sec. 1, p. 36; am. and redesig. 45-614, 1989, ch. 280, sec. 15, p. 682; am. 1999, ch. 51, sec. 15, p. 121; am. 2019, ch. 93, sec. 1, p. 338.]

45-615. COLLECTION OF WAGE CLAIMS BY SUIT -- ATTORNEY'S FEES AND COSTS. (1) As an alternative to filing a wage claim with the department, any

person may assert a wage claim arising under this chapter in any court of competent jurisdiction or pursue any other remedy provided by law.

(2) Any judgment rendered by a court of competent jurisdiction for the plaintiff in a suit filed pursuant to this section may include all costs and attorney's fees reasonably incurred in connection with the proceedings and the plaintiff shall be entitled to recover from the defendant either the unpaid wages plus the penalties provided for in section [45-607](#), Idaho Code; or damages in the amount of three (3) times the unpaid wages found due and owing, whichever is greater.

[45-615, added 1999, ch. 51, sec. 17, p. 122.]

45-616. ENFORCEMENT. (1) The director shall enforce and administer the provisions of this chapter. The director is empowered to hold hearings and otherwise investigate violations or alleged violations of this chapter and any rules promulgated pursuant thereto, and to issue orders for administrative remedies as authorized.

(2) The director is empowered to enter and inspect places, question employees, and investigate facts, conditions, or matters as the director may deem appropriate to determine whether any person has violated any provision of this chapter or any rule promulgated thereunder or which may aid in the enforcement of the provisions of this chapter.

(3) The director shall have the power to administer oaths and examine witnesses under oath or otherwise, and issue subpoenas to compel the attendance of witnesses and the production of any evidence deemed necessary in the administration of this chapter.

(4) If any person fails to comply with any subpoena lawfully issued, it shall be the duty of the district court, on application by the director, to compel compliance by citation for contempt.

(5) An employer shall furnish to the department the information the department is authorized to acquire under this section when the request is submitted in writing.

(6) The department shall attempt for a period of not less than two (2) years from the date of collection, to make payment of wages collected under this chapter to the person entitled thereto. Wage claims collected by the department that remain unclaimed for a period of more than two (2) years from the date collected shall on June 30th of each year be forfeited and retained in the department's account and used for the administration of this chapter.

[(45-616) I.C., sec. 45-613, as added by 1967, ch. 436, sec. 5, p. 1469; am. 1974, ch. 39, sec. 74, p. 1023; am. and redesignated 45-616, 1989, ch. 280, sec. 17, p. 683; am. 1999, ch. 51, sec. 18, p. 122.]

45-617. ADMINISTRATIVE PROCEEDINGS FOR WAGE CLAIMS. (1) Wage claims filed with the department, excluding potential penalties, are limited by the same dollar amount that limits actions before the small claims department of the magistrate's division of the district court.

(2) The contested case provisions of the Idaho administrative procedures act, [chapter 52, title 67](#), Idaho Code, are inapplicable to proceedings involving wage claims under this chapter.

(3) Once a wage claim has been properly filed with the department, the provisions of this section shall provide the exclusive remedy for resolving the wage claim. If at any time after the filing of the wage claim the department determines that it lacks jurisdiction over the wage claim, the depart-

ment shall provide written notification of its determination to the claimant and the employer. The claimant may then assert the wage claim in any court of competent jurisdiction. In the event the department determines that it lacks jurisdiction over the wage claim, the limitation periods provided for in section [45-614](#), Idaho Code, shall be tolled from the date the wage claim was filed with the department until the date notice that the department lacks jurisdiction is mailed to the claimant, as provided in subsection (5) of this section.

(4) A department compliance officer shall examine wage claims filed with the department and, on the basis of the facts found, shall determine whether the wage claimant is entitled to an award for unpaid wages and penalties. If the compliance officer is unable to determine whether wages and penalties are owed, the claim may be referred to a hearing officer for a determination. The department may adjust the amount of penalties awarded for an employer's failure to comply with the requirements of section [45-606](#), Idaho Code. The department may award no penalty, or may award a penalty in any amount up to the maximum amount allowed under section [45-607](#), Idaho Code. No penalty shall be awarded by the department unless a specific finding is made that wages were withheld willfully, arbitrarily and without just cause. The department's determination shall include findings of fact and conclusions of law. Before the determination becomes final or an appeal is filed, the compliance or hearing officer that issued the determination may, on their own motion, issue a revised determination. The determination or revised determination shall become a final determination unless, within fourteen (14) days after notice, as provided in subsection (5) of this section, an appeal is filed by the claimant or the employer with the department. If an appeal is not timely filed, the amount awarded by a final determination shall become immediately due and payable to the department. A final determination may be enforced by the department in accordance with section [45-618](#), Idaho Code.

(5) The claimant and the employer shall be entitled to prompt service of notice of determinations and decisions. A notice shall be deemed served if delivered to the person being served or if mailed to his last known address. Service by mail shall be deemed complete on the date of mailing. The date indicated on department determinations or decisions as the "date of mailing" shall be presumed to be the date the document was deposited in the United States mail, unless otherwise shown by a preponderance of competent evidence.

(6) An appeal from a wage claim determination shall be in writing, signed by the appellant or the appellant's representative and shall contain words that, by fair interpretation, request the appeal process for a specific determination of the department. The appeal may be filed by personal delivery, by mail, or by fax to the wage and hour section of the department at the address indicated on the wage claim determination. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark. A faxed appeal that is received by the wage and hour section by 5:00 p.m. on a business day shall be deemed filed on that date. A faxed appeal that is received by the wage and hour section on a weekend, holiday or after 5:00 p.m. on a business day shall be deemed filed on the next business day.

(7) To hear and decide appeals from determinations, the director shall appoint appeals examiners who have been specifically trained to hear wage

claims. Unless the appeal is withdrawn, the appeals examiner shall affirm, modify, set aside or reverse the determination involved, after affording the claimant and the employer reasonable opportunity for a fair hearing, or may refer a matter back to the compliance or hearing officer for further action. The appeals examiner shall notify the claimant and the employer of his decision by serving notice in the same manner as provided in subsection (5) of this section. The decision shall set forth findings of fact and conclusions of law. The appeals examiner may, either upon application for rehearing by the claimant, the employer, or on his own motion, rehear, affirm, modify, set aside or reverse any prior decision on the basis of the evidence previously submitted or on the basis of additional evidence; provided, that such application or motion be made within ten (10) days after the date of service of the decision. A complete record shall be kept of all proceedings in connection with an appealed wage claim. All testimony at any hearing shall be recorded. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed by the director. If the claimant or the employer formally requests the appeals examiner to issue a subpoena for a witness whose evidence is deemed necessary, the appeals examiner shall promptly issue the subpoena, unless such request is determined to be unreasonable. Unless the claimant or the employer, within fourteen (14) days after service of the decision of the appeals examiner, seeks judicial review pursuant to section [45-619](#), Idaho Code, or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner shall become final and the amount awarded by the decision shall become immediately due and payable to the department. A decision that has become final may be enforced by the department according to section [45-618](#), Idaho Code.

(8) No person acting on behalf of the director shall participate in any case in which he has a direct or indirect personal interest.

(9) (a) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination or decision of the appeals examiner which has become final, shall be conclusive for all the purposes of this chapter as between the claimant and the employer who had notice of such determination or decision. Subject to judicial review as set forth in this chapter, any determination or decision shall be conclusive for all purposes of this chapter and shall not be subject to collateral attack irrespective of notice.

(b) No finding of fact or conclusion of law contained in a determination or decision rendered pursuant to this chapter by an appeals examiner, a court, or any other person authorized to make such determinations shall have preclusive effect in any other action or proceeding, except proceedings that are brought:

- (i) Pursuant to this chapter;
- (ii) To collect wage claims; or
- (iii) To challenge the constitutionality of provisions of this chapter or administrative proceedings under this chapter.

[45-617, added 1999, ch. 51, sec. 20, p. 123.]

45-618. ADMINISTRATIVE ENFORCEMENT AND COLLECTION OF WAGE CLAIMS. (1) A department determination, if not appealed to an appeals examiner; or a decision of the appeals examiner, if judicial review is not sought; or a court order following judicial review, may be enforced by the department according to section [45-620](#), Idaho Code.

(2) If at any time the department determines, in its sole discretion, that a wage claim upon which a lien was filed pursuant to section [45-620](#), Idaho Code, is no longer collectable, the department shall:

(a) Transfer the state lien from the central lien filing system of the secretary of state to the district court in the county of the debtor's last known address. A lien transferred pursuant to this subsection shall be entered in the judgment docket of the district court and recorded as a transferred lien with the effective date of the lien being the date it was initially filed with the secretary of state.

(b) Notify the claimant in writing, at the claimant's last known address, that the lien has been transferred and advise the claimant that no further action will be maintained by the department on the wage claim, and that from the date of the transfer, it shall be the claimant's sole responsibility to maintain and enforce the lien.

(3) A lien transferred pursuant to this section shall be enforceable by the claimant in the same manner and with the same effect as if the lien had been a judgment of the district court.

[45-618, added 1999, ch. 51, sec. 21, p. 125.]

45-619. JUDICIAL REVIEW. (1) A claimant or employer aggrieved by a final decision of the appeals examiner may obtain judicial review of the decision pursuant to the provisions of [chapter 52, title 67](#), Idaho Code, and the provisions of this section.

(2) If the employer files a petition for judicial review in a court of competent jurisdiction contesting the appeals examiner's decision, the employer, not later than the twenty-eighth day after the date the appeals examiner's decision became final, shall either:

(a) Deposit the full amount awarded to the claimant with the department, to be placed by the department in an interest-bearing escrow account of a fully insured financial institution; or

(b) Post a bond, written by a fidelity, surety, guaranty, title or trust company authorized to do business in the state of Idaho. The bond must be in the full amount of the appeals examiner's decision and shall state that the company issuing or executing the bond agrees to pay to the department on behalf of the employer all sums found to be due and owing by the employer by reason of the outcome of the appeal, within thirty (30) days of the filing of the court's decision. A copy of the bond shall be served upon the department and the claimant; or

(c) File an affidavit of inability to either post a bond or send to the department the amount awarded to the claimant.

(3) The employer's failure to timely post a bond or send the amount required by subsection (2) of this section shall constitute a waiver of the right to judicial review.

(4) If, after judicial review, it is determined that some or all of the wages are not owed or the penalty is reduced or is not assessed, the department shall remit the appropriate amount to the employer, plus the interest accrued on the escrowed amount, or collect from the bond only the amount awarded by the court on appeal, up to the maximum amount of the bond.

[45-619, added 1999, ch. 51, sec. 22, p. 126.]

45-620. LIENS. (1) Upon the failure of any person to pay any amount when due pursuant to section [45-617](#), Idaho Code, the department may file with the

office of the secretary of state, as provided in [chapter 19, title 45](#), Idaho Code, a notice of lien.

(2) Upon delivery to the secretary of state, the notice of lien shall be filed and maintained in accordance with [chapter 19, title 45](#), Idaho Code. When such notice is duly filed, all amounts due shall constitute a lien upon the entire interest, legal or equitable, in any property of such person, real or personal, tangible or intangible, not exempt from execution, situated in the state. Such lien may be enforced by the director or by any sheriff of the various counties in the same manner as a judgment of the district court duly docketed and the amount secured by the lien shall bear interest at the rate of the state statutory legal limit on judgments. The foregoing remedy shall be in addition to all other remedies provided by law.

(3) In any suit or action involving the title to real or personal property against which the state has a perfected lien, the state shall be made a party to such suit or action.

[45-620, added 1999, ch. 51, sec. 23, p. 126.]

45-621. COLLECTION OF LIEN AMOUNTS. (1) In addition to all other remedies or actions provided by this chapter, it shall be lawful for the director or his agent to collect any amounts secured by liens created pursuant to this chapter by seizure and sale of the property of any person liable for such amounts who fails to pay the same within thirty (30) days from the mailing of notice and demand for payment thereof.

(2) Property exempt from seizure shall be the same property that is exempt from execution as otherwise allowed by law.

(3) In exercising his authority under subsection (1) of this section, the director may levy, or by his warrant, authorize any of his representatives, a sheriff or deputy to levy upon, seize and sell any nonexempt property belonging to any person liable for the amounts secured by the lien.

(4) When a warrant is issued by the department for the collection of any amount due pursuant to a lien authorized by this chapter, it shall be directed to any authorized representative of the department, or to any sheriff or deputy, and any such warrant shall have the same force and effect as a writ of execution. It may be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy and sale pursuant to a writ of execution. Upon the completion of his services pursuant to said warrant, the sheriff or deputy shall receive the same fees and expenses as are provided by law for services related to a writ of execution. All such fees and expenses shall be an obligation of the person liable for the amounts due and shall be collected from such person by virtue of the warrant. Any warrant issued by the director shall contain, at a minimum, the name and address of the liable person; the nature of the underlying liability; the date the liability was incurred; the amount of the liability secured by the lien; the amount of any penalty, interest or other amount due under the lien; and the interest rate on the lien.

(5) Whenever any property that is seized and sold by virtue of the foregoing provisions is not sufficient to satisfy the claim of the state for which seizure is made, any other property subject to seizure shall be seized and sold until the amount due from such person, together with all expenses, is fully paid.

(6) All persons are required, on demand of a representative of the department, a sheriff or deputy acting pursuant to this chapter, to produce all

documentary evidence and statements relating to the property or rights in the property subject to seizure.

(7) Upon the filing of a state lien pursuant to section [45-620](#), Idaho Code, the department may collect on the lien in the same manner and to the same extent as the department collects tax liabilities and overpayment of benefits as provided by section [63-3077A](#), Idaho Code.

[45-621, added 1999, ch. 51, sec. 24, p. 127.]