

§3822. Liens

The department may issue a certificate of lien 21 days after service of a notice to repay, unless collection action is stayed in accordance with section 3813, subsection 6. A lien issued by the department under this section attaches to all nonexempt real and personal property of the person named in the notice to repay. The department shall send the obligor a copy of a certificate of lien issued under this section to the obligor's most recent address of record. [PL 1993, c. 654, §1 (NEW).]

1. Filing. The department may file a certificate of lien issued under this section in the registry of deeds of any county in which the obligor may own real property or with the Secretary of State. The certificate must state the name of the obligor named in the notice to repay, the obligor's most recent address of record, the amount of the overpayment that has not been recouped, repaid or otherwise recovered, the date of the notice to repay and the name and address of the department's agent who issued the lien.

[PL 1993, c. 654, §1 (NEW).]

2. Effect. If the department has issued a certificate of lien in accordance with the requirements of this section, no person having notice of the lien or in possession of any property that may be subject to the lien may pay over, release, sell, transfer, encumber or convey such property, unless:

A. An authorized representative of the commissioner executes a release or waiver and delivers it to the person in possession; or [PL 1993, c. 654, §1 (NEW).]

B. A court of competent jurisdiction orders the department to release the lien. [PL 1993, c. 654, §1 (NEW).]

[PL 1993, c. 654, §1 (NEW).]

3. Hearing. An obligor may request a hearing to contest the issuance of a certificate of lien. A request for hearing must be received by the department within 30 days of the date of mailing of the obligor's copy of the certificate of lien. The department shall notify the obligor in writing of the right to hearing at the time of mailing of the obligor's copy of the certificate of lien. At hearing the obligor may contest the accuracy of the certificate of lien and whether the lien was implemented in accordance with the requirements of this section. The department shall conduct the hearing in accordance with the requirements of Title 5, chapter 375, subchapter IV.

[PL 1993, c. 654, §1 (NEW).]

4. Decision after hearing. The department shall render a decision after hearing without undue delay as to the accuracy of the terms of the certificate of lien and whether the lien was issued in accordance with the requirements of this section. The decision must be based on the hearing record and rules adopted by the commissioner. A copy of the decision must be sent to the obligor at the obligor's most recent address of record. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision.

[PL 1993, c. 654, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 654, §1 (NEW).

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