

## **IC 22-4-31**

### Chapter 31. Additional Remedies for Collection of Delinquent Contributions; Jeopardy Assessments

#### **IC 22-4-31-1**

##### **Powers and duties**

Sec. 1. (a) If any contributions, interest, penalties, or damages assessed under this article, or any portion thereof, be not paid within one hundred twenty (120) days after the same is found to be due, a receiver may be appointed by the circuit or superior court of the county in which such employer resides or in which the employer is doing business or in which the employer's resident agent is located in a proceeding requesting such appointment instituted against the said employer in the name of the state of Indiana, brought by the attorney general for the state of Indiana at the request of the department.

(b) The court shall appoint a receiver when it finds that the employer has not paid the contributions or amounts due imposed by this article within one hundred twenty (120) days after the same is found to be due, and that contributions, interest, penalties, or damages, or any portion thereof, is unpaid and delinquent. Such cause for the appointment of a receiver shall be in addition to all other causes or grounds provided by law for the appointment of receivers and shall be in addition to all other methods for the enforcement of this article.

(c) Each such receiver shall give bond and be sworn as provided for by law and shall have power under the control of the court to bring and defend actions, to take and keep possession of the property of the employer, to receive all funds and collect any debts due to the employer, in the receiver's name, and generally to do such acts respecting the property as the court shall authorize, and shall have all the powers granted to, or shall be subject to all the duties of, receivers under the laws of this state.

*(Formerly: Acts 1947, c.208, s.3201.) As amended by P.L.144-1986, SEC.133; P.L.108-2006, SEC.51.*

#### **IC 22-4-31-2**

##### **Appeal; bond; suspension of power**

Sec. 2. In all proceedings instituted after April 1, 1947, under the provisions of section 1 of this chapter in which a receiver may be appointed or refused, the party aggrieved may, within ten (10) days thereafter, appeal from the decision of the court to the supreme court without awaiting the final determination of such proceedings. In cases where a receiver has been appointed, upon the appellant filing an appeal bond with sufficient surety in such sum as may have been required of such receiver conditioned upon the due prosecution of such appeal and the payment of all costs or damages that may accrue to any officer or person by reason thereof, the authority of such receiver shall be suspended until the final determination of such appeal.

*(Formerly: Acts 1947, c.208, s.3202.) As amended by P.L.144-1986, SEC.134.*

#### **IC 22-4-31-3**

##### **Injunction; collection of contributions**

Sec. 3. No injunction to restrain or delay the collection of any contributions or other amounts claimed to be due under the provisions of this article shall be issued by any court.

*(Formerly: Acts 1947, c.208, s.3203.) As amended by P.L.144-1986, SEC.135; P.L.290-2001, SEC.23; P.L.175-2009, SEC.38.*

#### **IC 22-4-31-4**

##### **Jeopardy assessments; delinquent contributions; liens**

Sec. 4. If the department finds that the collection of any contributions will be jeopardized by delaying, it shall enter such finding of record and thereupon, whether or not such contributions are due, immediately assess such contributions with interest and notify the employer thereof and simultaneously demand payment of the amount due in writing. If such payment is not made on demand, the commissioner shall immediately issue a warrant to the sheriff of any county in the state commanding the sheriff to immediately levy upon and sell sufficient of the employer's property found within the sheriff's bailiwick to satisfy said warrant. The sheriff shall file the warrant in the office of the clerk of the circuit court within twenty-four (24) hours after the sheriff has levied upon the property of the employer, and the lien of the department shall begin with the date upon which the warrant comes into the possession of the sheriff. The lien shall have the same effect as any other lien created by this article.

*(Formerly: Acts 1947, c.208, s.3204.) As amended by P.L.144-1986, SEC.136; P.L.18-1987, SEC.84; P.L.21-1995, SEC.118.*

#### **IC 22-4-31-5**

##### **Jeopardy assessments; delinquent contributions; stay pending hearing**

Sec. 5. The collection of the whole or any part of the amount of such assessment may be stayed for not exceeding sixty (60) days, by filing with the board a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the board considers necessary, conditioned upon payment of the amount which may finally be found to be due after notice and opportunity to be heard as herein provided.

*(Formerly: Acts 1947, c.208, s.3205.)*

#### **IC 22-4-31-6**

##### **Actions and proceedings; delinquent contributions; costs**

Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the department. Such

civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through IC 22-4-29-14 and is to be brought only in such cases as the department may deem advisable in the interest of necessity and convenience.

(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

*(Formerly: Acts 1947, c.208, s.3206.) As amended by P.L.144-1986, SEC.137; P.L.18-1987, SEC.85; P.L.21-1995, SEC.119; P.L.290-2001, SEC.24; P.L.108-2006, SEC.52; P.L.138-2008, SEC.6.*

#### **IC 22-4-31-7**

##### **Remedies; cumulative remedies**

Sec. 7. It is expressly provided that the foregoing remedies shall be cumulative and shall be in addition to all other existing remedies, and that no action taken by the department or its duly authorized representative, the attorney general for the state of Indiana, or any other officer shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy.

*(Formerly: Acts 1947, c.208, s.3207.) As amended by P.L.108-2006, SEC.53.*

#### **IC 22-4-31-8**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.2251.)*