



## Interpretive Notice & Formal Opinion (“INFO”) #2D: Enforcement: Certified Copies; Administrative Liens and Levies

### Overview

This INFO covers ways that the Division can enforce determinations of unpaid wages, fines, and/or penalties.

### Certified Copy of Citation, Notice of Assessment, or Order

- If an employer does not pay all wages, penalties, and fines in full after 60 days, the Division will file in court a certified copy of the citation, notice of assessment, or other order requiring payment — collectively, any “Division payment order.” The court clerk will mail a copy of the judgment to the employer.
- Filing a Division payment order as a certified copy makes it a court judgment, allowing court-issued collection and enforcement efforts, such as attachment or garnishment of employer assets.<sup>1</sup>

### Overview of Administrative Liens & Levies

- The Division has authority to issue and execute “administrative liens and levies” to enforce Division payment orders and collect assets, in addition to or instead of using judicial collection efforts.<sup>2</sup>
  - A “lien” is a legal filing that attaches to property owned by a debtor who owes money to another person (like a wage claimant) or agency (like the Division), limiting the debtor’s ability to sell, transfer, or dispose of the property until they pay what is owed,<sup>3</sup> and allowing seizure and sale of the property if they don’t pay what they owe.<sup>4</sup>
  - A “levy” is the legal consequence of an unsatisfied “lien” – the seizure or sale of a debtor’s property to satisfy the lien.
- On its own, or at the request of a worker who has not been paid, the Division can issue a “**notice of administrative lien and levy**” to:
  - any employer, or other person or entity who has not paid wages, penalties, or fines they owe under a Division payment order (a “Division debtor”); or
  - any other person or entity with possession, custody, or control of any assets of the Division debtor (an “asset holder”), such as a bank.<sup>5</sup>
- A notice of administrative lien and levy informs the Division debtor and asset holder that:
  - the Division has imposed a lien and levy on certain assets of the Division debtor (“covered assets”);
  - the Division debtor and asset holder are prohibited from transferring or disposing of the covered assets until the Division or a court issues a further order;<sup>6</sup> and
  - if wages, penalties, or fines remain unpaid after 30 days, the Division may seize the covered assets and use them to pay the Division debtor’s obligations.

<sup>1</sup> C.R.S. § 8-4-113(2)(a)-(c). An employee may use various judicial procedures to collect a judgment based on a Division payment order. For more information, see the Colorado Judicial Branch’s guidance on self-help for collecting a judgment through a court: [https://www.courts.state.co.us/Self\\_Help/collectjudgment/](https://www.courts.state.co.us/Self_Help/collectjudgment/).

<sup>2</sup> C.R.S. § 8-4-113(4)(a), enacted as part of Colorado Senate Bill 22-161 (effective January 1, 2023).

<sup>3</sup> C.R.S. §§ 38-35-201(2) (defining “lien” as “an encumbrance on ... property as security for the payment of a debt or performance of an obligation”); 39-1-107 (tax lien); 38-22-101, *et seq.* (mechanic’s lien); 13-52-102 (judgment lien).

<sup>4</sup> C.R.S. §§ 38-38-101, *et seq.* (foreclosure procedures for various lienholders).

<sup>5</sup> C.R.S. § 8-4-113(4)(a).

<sup>6</sup> C.R.S. § 8-4-113(4)(a)(V)(A)-(B).

**Assets Subject to Administrative Liens & Levies<sup>7</sup>**

- Real, intangible, or personal property of the Division debtor.
  - *Examples:* Bank accounts, cash on hand, real estate, intellectual property (trademarks, copyrights), physical property (jewelry, office equipment, cash registers, machinery).
- The Division debtor's right to real, intangible, or personal property.
  - *Examples:* The Division debtor's right to receive future payments or real estate from a third party, or to obtain assets through a pending lawsuit.
- Payments due to and accounts receivable of the Division debtor.
  - *Examples:* Money owed to the Division debtor by its customers or vendors.
- Credits or debts involving the Division debtor.
  - *Examples:* Refunds owed to the Division debtor.

**Notice of Administrative Lien & Levy**

- The Division must send the Division debtor, and any other person or entity with possession, custody, or control of the Division debtor's assets ("asset holder"), a notice of administrative lien and levy ("notice") that:<sup>8</sup>
  - must include certain information listed in C.R.S. § 8-4-113(4)(a);<sup>9</sup>
  - can be served by first-class or overnight mail, personal delivery, or (if agreed upon) electronically; and
  - can be served on any asset holder, including by service on its principal office or branch office.<sup>10</sup>
- With the notice, the Division must also provide information about the right to oppose an administrative lien and levy, consistent with the Division's rules and other Colorado law.<sup>11</sup>

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<sup>7</sup> [C.R.S. § 8-4-113\(4\)\(e\)\(I\)-\(IV\)](#).

<sup>8</sup> C.R.S. § 8-4-113(4)(b)(I), (III); [Wage Protection Rules](#), 7 C.C.R. § 1103-7, Rule 8.1(A).

<sup>9</sup> A notice of administrative lien and levy will include the following information (C.R.S. § 8-4-113(4)(a)(I)-(IX)):

- The name and address of the person having possession, custody or control of the employer's assets;
- The employer's name, address, and taxpayer identification number, if known;
- The total the employer owes for wages, fines, and/or penalties;
- The names of all employees determined to be owed wages and/or penalties, and the amount each is owed;
- Instructions on how the employer or asset holder remits, transits, or transfers assets covered by the notice; and
- Statements that:
  - The lien and levy is superior to any later-filed lien on the same assets;
  - Transfer or disposition of the assets is prohibited, unless agreed to by the Division;
  - The asset holder shall be liable if those assets are transferred or disposed of after receipt of the notice;
  - If the assets covered by the notice are insufficient to pay all of the employer's obligations, the asset holder shall use any available assets to first pay wages and penalties to the employee, before fines to the Division;
  - If no assets are available for surrender, the employer or asset holder must return the remittance notice within thirty (30) days after service of the notice of the administrative lien and levy; and
  - The lien and levy is automatically inactivated upon returning the remittance notice or surrendering of the assets.

<sup>10</sup> C.R.S. § 8-4-113(4)(b)(I).

<sup>11</sup> C.R.S. § 8-4-113(4)(b)(III). *See also* Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.

## **Opposing an Administrative Lien & Levy**

**You can oppose, in whole or in part, a notice of administrative lien and levy (“notice”) in four ways:**

**(1) Exemption.** If you claim that some law or reason protects the covered assets from being seized by the Division to satisfy the Division debtor’s obligation, you may oppose the notice on the grounds of “**exemption**.” You can claim that an “**exemption**” applies and that the assets are “**exempt**” from the Division’s collection efforts for any of the following reasons:<sup>12</sup>

- (A) The owner of the covered assets was misidentified as a Division debtor;
- (B) The covered assets are in a custodial account for a minor’s benefit,<sup>13</sup> or trust account for a third party;<sup>14</sup>
- (C) The covered assets qualify as “disposable earnings” as defined in C.R.S. § 13-54-104(1)(a) and the assets, in whole or in part, exceed the maximum amount of such earnings permitted to be used to satisfy the Division debtor’s obligation under C.R.S. § 13-54-104(2) — typically, 20% of the debtor’s weekly earnings;<sup>15</sup> or
- (D) A law exempts the covered assets from use in garnishment, levy, execution, attachment, or other legal proceedings to enforce any order or judgment.

**(2) Exception.** If the Division debtor is a natural person who is terminally ill, the administrative lien and levy will not apply to that debtor’s assets, and you may oppose the notice on the grounds of “**exception**.”<sup>16</sup>

**(3) Rescission.** If you believe the Division failed to follow the proper procedures for issuing a notice and should “**rescind**” or cancel its notice, you may oppose the notice on the grounds of a “**rescission**.”<sup>17</sup> The Division will “**rescind**” or cancel a notice if you show two conditions are met:

- (A) The Division did not follow all legally required procedures for issuing a notice, including but not limited to providing all necessary information in the notice; and
- (B) The Division’s failure prevented the Division debtor, asset holder, or other relevant party from receiving notice of information that should have been set forth in the notice, or from learning of, or engaging in, the opportunity to be heard on matters related to the notice, or, in some other way, had a prejudicial effect (for example, interference with one’s ability to exercise legal rights) on the Division debtor, asset holder, or other relevant party.

**(4) Appeal.** If the covered assets are in a jointly owned or shared account (“joint account”), you may seek review of whether all or some of the assets belong only to non-Division debtor party/ies, and oppose the notice on the grounds of an “**appeal**.”<sup>18</sup> The Division may grant an “**appeal**” if you prove the assets are in a joint account(s) and the Division seeks assets in an amount exceeding the Division debtor’s “net contribution”<sup>19</sup> to those account(s).

<sup>12</sup> [Wage Protection Rules](#), 7 C.C.R. § 1103-7, Rule 8.2.1.

<sup>13</sup> Specifically, a custodial account created for the benefit of a minor as described in the Colorado Uniform Transfers to Minors Act, C.R.S. § 11-50-110. [C.R.S. § 8-4-113\(4\)\(b\)\(III\)](#); Wage Protection Rules, 7 C.C.R. 1103-7, Rule 8.2.1(B).

<sup>14</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.2.1(B).

<sup>15</sup> Except that if the debtor’s weekly earnings are less than 50 times the Colorado minimum wage, the maximum is their weekly earnings minus 40 times the Colorado minimum wage (or zero, if their earnings are less than that multiple of the minimum wage). C.R.S. § 13-54-104(2)(a)(I) (“the maximum part of the aggregate disposable earnings of an individual for any workweek that is subjected to garnishment or levy under execution or attachment may not exceed: ... the lesser of: (A) Twenty percent of the individual’s disposable earnings for that week; or (B) The amount by which the individual’s disposable earnings for that week exceed forty times the federal minimum hourly wage prescribed by 29 U.S.C. sec. 206(a)(1) in effect at the time the earnings are payable; or (C) The amount by which the individual’s disposable earnings for that week exceed forty times the state minimum hourly wage pursuant to section 15 of article XVIII of the state constitution in effect at the time the earnings are payable[.]”).

<sup>16</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.2.3.

<sup>17</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.2.2.

<sup>18</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.2.4.

<sup>19</sup> “Net contribution” has the definition provided in C.R.S. § 15-15-211(1).

### **How to File a Claim of Exemption, Exception, or Rescission, or an Appeal**

The owner of any asset that is subject to an administrative lien and levy and asset holder will receive a Notice of Right to Claim Exemption/Exception/Rescission to Administrative Lien and Levy (“Claim Notice”) and a Joint Account Appeal Notice (“Appeal Notice”).

- The Claim Notice will provide detailed information about the different grounds for supporting an **exemption**, **exception**, and **rescission**, the evidence required for supporting each type, and how to file such a claim.
  - If you wish to claim an **exemption**, **exception**, or **rescission**, you must:
    - **State the specific grounds for your claim.** For example, if you claim a statutory exemption, state or describe what exemption you are claiming.
    - **Provide the documents described in the Claim Notice** for the type of opposition you are claiming, and/or provide any and all other documents that you believe substantiate your claim.<sup>20</sup>
- The Appeal Notice will provide detailed information about the grounds for an **appeal**, the documentation required to support the **appeal**, and how to file such an **appeal**.
  - If you wish to file an **appeal** based on marital status, you must provide evidence of the Division debtor’s marital status as described in the Appeal Notice.
  - If you wish to file an **appeal** based on your status as a non-debtor joint or shared account owner, you must prove that some or all of the covered assets are identifiable assets in the account(s) that belong to your “net contribution” to the account(s).<sup>21</sup>

**The filer of the claim or appeal has the burden of proving that proper grounds for an exemption, exception, rescission, or appeal apply to the administrative lien and levy.**<sup>22</sup>

### **When and Where to Send a Claim of Exemption, Exception, or Rescission or an Appeal**

- **WHEN: Meet the deadline set by law.** Claims of exemption, exception, or rescission, or appeals, must be filed **within 21 calendar days** of the date of (listed on) the notice of administrative lien and levy (“**issue date**”).<sup>23</sup> Those filings must be **received** by the Division **within 21 calendar days** of the **issue date**<sup>24</sup> — you **can’t** meet this deadline **by only mailing** the claim or appeal to the Division **within 21 days** of the **issue date**. The Division **can’t** accept late claims or appeals. If you mail a claim or appeal on day 21 after the **issue date**, the Division **won’t** receive it on time, and it can’t review that claim or appeal.
- **WHERE:** Send a claim or appeal to the Division by email ([cdle\\_LS\\_appeals@state.co.us](mailto:cdle_LS_appeals@state.co.us)), fax (303-318-8400), or mail or hand delivery (at the address in the header of this INFO).

### **Disagreement with a Hearing Officer’s Decision**

A Division hearing officer will review, and decide whether to approve or deny relief requested in, **timely** filed claims of exemption, exception, or rescission and appeals. If you disagree with the exemption, exception, rescission, or appeal decision, generally you can ask for judicial review in the appropriate Colorado district court within **35 days** of the decision.<sup>25</sup> If you don’t, the decision will be final. We can’t assist in the court process. If you need help, ask an attorney or visit [courts.state.co.us](https://courts.state.co.us).<sup>26</sup>

### **For More Information**

Visit the Division’s [website](https://cdle.state.co.us), call 303-318-8441, or email [cdle\\_ls\\_appeals@state.co.us](mailto:cdle_ls_appeals@state.co.us).

<sup>20</sup> [Wage Protection Rules](#), 7 C.C.R. § 1103-7, Rules 8.3, 8.3.1.

<sup>21</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.2.4 (citing C.R.S. § 15-15-211).

<sup>22</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.3.1.

<sup>23</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.3.

<sup>24</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 2.20.

<sup>25</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 8.3.4; see also C.R.S. § 24-4-106(4).

<sup>26</sup> Wage Protection Rules, 7 C.C.R. § 1103-7, Rule 6.1.2.