

A-Engrossed House Bill 3313

Ordered by the House May 2
Including House Amendments dated May 2

Sponsored by COMMITTEE ON JUDICIARY (at the request of Clackamas County)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires county or local government, before incurring costs to decontaminate nuisance illegal drug manufacturing site, to give notice to owner of property and to each person that has mortgage, trust deed or other lien. Requires persons receiving notice to respond within specified period of time.

Gives priority to lien for costs incurred by county **or local government** to secure nuisance illegal drug manufacturing site and make site fit for use.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to local government ability to recoup costs incurred for illegal drug manufacturing site
3 rehabilitation; creating new provisions; amending ORS 105.585; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) Before incurring costs to decontaminate a property that is a nuisance**
6 **described in ORS 105.555 (1)(c) or to have the property certified as fit for use under ORS**
7 **453.885, a county or other local government shall give notice to each owner of record for the**
8 **property and to each person that has a mortgage, trust deed or other lien on the property**
9 **recorded in the county deed records. A notice given by the county or local government to**
10 **an owner or lienholder shall allow the owner or lienholder not less than 60 days to respond.**

11 **(2) An owner or lienholder making a timely response to a notice given under subsection**
12 **(1) of this section may propose a course of action by the owner or lienholder to decontam-**
13 **inate and obtain certification of the property within a reasonable time. If the owner or**
14 **lienholder proposes a course of action that may be reasonably expected to achieve the de-**
15 **contamination and certification of the property, except as provided in this subsection the**
16 **county or other local government shall suspend other efforts to decontaminate or obtain**
17 **certification of the property. This subsection does not prevent the county or local govern-**
18 **ment from securing the property by obtaining an injunction against use of the property.**

19 **(3) If more than one owner or lienholder proposes a reasonable course of action for a**
20 **property, the county or other local government may require that the owners and lienholders**
21 **proposing courses of action work together to decontaminate and obtain certification of the**
22 **property. The county or local government may require an owner or lienholder to periodically**
23 **report to the county or local government regarding efforts to carry out a course of action.**
24 **The county or local government may resume efforts to decontaminate and obtain certif-**
25 **ication of a property if the county or local government determines, after opportunity for a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 hearing, that an owner or lienholder has failed to diligently pursue the course of action
2 proposed by the owner or lienholder and to complete the course of action within a reasonable
3 time.

4 (4) A lien under ORS 105.585 (2) for costs incurred by the county or local government in
5 decontaminating and obtaining certification of the property is superior to, has priority over
6 and shall be fully satisfied before all other liens, judgments, mortgages, security interests
7 or encumbrances on the property other than tax liens, regardless of the date of creating,
8 filing or recording of the lien, judgment, mortgage, security interest or encumbrance, if the
9 county or other local government incurs the cost after giving notice to owners and
10 lienholders under subsection (1) of this section and:

11 (a) No owner or lienholder provided a response on or before the 60th day after the giving
12 of the notice; or

13 (b) An owner or lienholder for the property timely responded to the notice with a pro-
14 posed course of action for decontaminating and obtaining certification of the property, but
15 failed to complete the course of action within:

16 (A) Eight months after the notice date; or

17 (B) A date more than eight months after the notice date that was agreed to by the
18 county or local government that gave the notice and the owner or lienholder that timely
19 responded to the notice.

20 **SECTION 2.** ORS 105.585 is amended to read:

21 105.585. (1) Any costs associated with securing the property under ORS 105.550 to 105.600 shall
22 constitute a lien against the property declared to be a nuisance from the time a notice specifying
23 the costs is filed of record.

24 (2) Any costs incurred by the county or local government to secure a property that is a
25 nuisance described in ORS 105.555 (1)(c) and have the property decontaminated and certified
26 as fit for use under ORS 453.885 shall constitute a lien against the property declared to be
27 a nuisance from the time a notice specifying the costs is filed of record. Notwithstanding
28 subsection (3) of this section, the priority of a lien created under this subsection is governed
29 by section 1 (4) of this 2007 Act.

30 (3) A lien created by ORS 105.550 to 105.600 is prior and superior to all other liens, mortgages
31 and encumbrances against the property upon which the lien is imposed [*which*] **that** attached to the
32 property after any lien imposed by ORS 105.550 to 105.600.

33 [(2)] (4) A notice of pendency of an action may be filed pursuant to ORS 93.740 with respect to
34 any action filed under ORS 105.550 to 105.600.

35 **SECTION 3.** Section 1 of this 2007 Act and the amendments to ORS 105.585 by section 2
36 of this 2007 Act apply to liens for costs incurred by counties or other local governments on
37 or after the effective date of this 2007 Act.

38 **SECTION 4.** This 2007 Act being necessary for the immediate preservation of the public
39 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
40 on its passage.