

Enrolled
House Bill 3313

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

CHAPTER

AN ACT

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

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

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

(2) An owner or lienholder making a timely response to a notice given under subsection (1) of this section may propose a course of action by the owner or lienholder to decontaminate and obtain certification of the property within a reasonable time. If the owner or lienholder proposes a course of action that may be reasonably expected to achieve the decontamination and certification of the property, except as provided in this subsection the county or other local government shall suspend other efforts to decontaminate or obtain certification of the property. This subsection does not prevent the county or local government from securing the property by obtaining an injunction against use of the property.

(3) If more than one owner or lienholder proposes a reasonable course of action for a property, the county or other local government may require that the owners and lienholders proposing courses of action work together to decontaminate and obtain certification of the property. The county or local government may require an owner or lienholder to periodically report to the county or local government regarding efforts to carry out a course of action. The county or local government may resume efforts to decontaminate and obtain certification of a property if the county or local government determines, after opportunity for a hearing, that an owner or lienholder has failed to diligently pursue the course of action proposed by the owner or lienholder and to complete the course of action within a reasonable time.

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

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

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

(A) Eight months after the notice date; or

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

SECTION 2. ORS 105.585 is amended to read:

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

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

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

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

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

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

Passed by House May 8, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate June 1, 2007

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President of Senate

Received by Governor:

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Approved:

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State