

A-Engrossed
House Bill 2463

Ordered by the House April 24
Including House Amendments dated April 24

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of State Lands)

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.

Authorizes Department of State Lands to seize abandoned structures and derelict structures on, under or over state-owned submerged and submersible lands. Requires department to adopt by rule procedures for seizure of structures.

Establishes Submerged Lands Enhancement Fund. Requires deposit of certain moneys in fund. Directs department to use moneys in fund for activities associated with management and enhancement of submerged and submersible lands.

A BILL FOR AN ACT

1
2 Relating to submerged lands enhancement.

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

4 **SECTION 1. As used in sections 1 to 5 of this 2015 Act:**

5 (1) **"Abandoned structure" means a structure that has been left without authorization**
6 **on, under or over state-owned submerged or submersible lands.**

7 (2) **"Abandoned vessel" has the meaning given that term in ORS 830.908.**

8 (3) **"Derelict structure" means a structure that is on, under or over state-owned sub-**
9 **merged or submersible lands and that is:**

10 (a) **Sunk or in imminent danger of sinking due to its dilapidated condition;**

11 (b) **Obstructing a waterway;**

12 (c) **Endangering life or property; or**

13 (d) **In dilapidated condition such that it is in danger of becoming an environmental hazard**
14 **as evidenced by instances of leaking fuel, sewage or other pollutants.**

15 (4) **"Derelict vessel" has the meaning given that term in ORS 830.908.**

16 (5) **"Marine debris" means any manufactured or processed solid material that:**

17 (a) **Persists in the marine environment; and**

18 (b) **Is disposed of or abandoned, either with intention or unintentionally, in any waters**
19 **of which the submersible or submerged lands belong to the State of Oregon.**

20 (6) **"Owner" means a person who has a property interest in a structure or vessel.**

21 **SECTION 2. (1) The Department of State Lands is authorized to seize a structure on,**
22 **under or over state-owned submerged or submersible lands if:**

23 (a) **The department determines, after providing notice and opportunity for a hearing, that**
24 **the structure is an abandoned structure or a derelict structure; and**

25 (b) **The owner of the structure has failed to correct the problems identified in the notice**

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 within a reasonable time specified in the notice provided under the rules adopted under sec-
2 tion 5 of this 2015 Act or within any additional time that may be granted by the department.

3 (2) The department may remove, salvage, store and dispose of structures seized under
4 this section.

5 (3)(a) Nothing in this section affects the ability of the department to:

6 (A) Investigate and prosecute trespasses on and damage to state lands under ORS
7 273.185; or

8 (B) Immediately seize without notice a structure that presents a hazard to navigation
9 or an imminent threat to public health or safety.

10 (b) If the department seizes a structure without notice under this subsection and the
11 department wishes to salvage or dispose of the structure, the department shall provide no-
12 tice as provided for in the rules adopted under section 5 of this 2015 Act.

13 **SECTION 3.** (1) Except as may otherwise be provided by the Department of State Lands
14 by rule, the owner of an abandoned structure or derelict structure is liable to the depart-
15 ment for all costs arising out of removal, salvage, storage and disposal of a structure seized
16 under sections 1 to 5 of this 2015 Act. Any order imposing liability for the costs is an order
17 other than a contested case and is subject to review under ORS 183.484.

18 (2) If the department sells a structure seized under sections 1 to 5 of this 2015 Act, the
19 liability imposed under this section shall be reduced by the net proceeds of the sale.

20 (3) Except as may otherwise be provided by the department by rule, an owner of a
21 structure whose only interest in the structure is a security interest is not liable for costs
22 arising out of removal, salvage, storage and disposal of a structure under sections 1 to 5 of
23 this 2015 Act.

24 **SECTION 4.** (1) The Submerged Lands Enhancement Fund is established in the State
25 Treasury, separate and distinct from the General Fund. Interest earned by the Submerged
26 Lands Enhancement Fund shall be credited to the fund. Moneys in the fund are continuously
27 appropriated to the Department of State Lands for the purposes specified in this section.

28 (2) Notwithstanding ORS 273.105, the fund shall consist of:

29 (a) No more than 20 percent of the moneys collected by the department per biennium
30 pursuant to the department's granting of leases, easements, registrations and other per-
31 missions to use or occupy state-owned submerged or submersible lands; and

32 (b) Moneys collected by the department under subsection (5) of this section.

33 (3) Moneys in the Submerged Lands Enhancement Fund may be used to pay the expenses
34 of the department associated with management and enhancement activities on state-owned
35 submerged and submersible lands, including but not limited to:

36 (a) Removal, salvage, storage and disposal of abandoned or derelict structures under
37 section 2 of this 2015 Act;

38 (b) Removal and disposal of marine debris;

39 (c) Assistance with the salvage, towing, storage and disposal of abandoned or derelict
40 vessels pursuant to ORS 830.908 to 830.948; and

41 (d) Engagement in activities to improve water quality, watershed enhancement and fish
42 and wildlife habitat on submerged and submersible lands.

43 (4) The department may use moneys in the fund to provide funding to a state agency,
44 county, city, water improvement district, watershed council, park and recreation district,
45 port district, federally recognized Indian tribe or nonprofit organization to assist the de-

1 **partment in completing any of the management and enhancement activities provided for in**
2 **subsection (3) of this section.**

3 **(5) The department may recover payments made from the fund from an owner of a**
4 **structure or vessel who is liable for the costs of removal, salvage, storage and disposal of a**
5 **structure under section 3 of this 2015 Act. The department shall deposit all moneys recovered**
6 **under this subsection into the fund.**

7 **SECTION 5. The Department of State Lands shall adopt rules to carry out the provisions**
8 **of sections 1 to 5 of this 2015 Act. The rules shall, at a minimum, include procedures:**

9 **(1) For providing notice and opportunity for a hearing prior to the seizure of abandoned**
10 **or derelict structures under sections 1 to 5 of this 2015 Act; and**

11 **(2) Related to the manner by which requests to the department for the use of moneys in**
12 **the Submerged Lands Enhancement Fund may be made and evaluated by the department.**

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