

House Bill 2463

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 **as introduced**.

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 4 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) **“Owner” means a person who has a property interest in a structure or vessel.**

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

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

21 (b) **The owner of the structure has failed to correct the problems identified in the notice**
22 **within a reasonable time specified in the notice provided under the rules adopted under**
23 **subsection (3) of this section or within any additional time that may be granted by the de-**
24 **partment.**

25 (2) **The department may remove, salvage, store and dispose of structures seized under**
26 **this section.**

27 (3) **The department shall adopt rules to carry out the provisions of this section. The rules**
28 **shall, at a minimum, provide procedures for notice and opportunity for a hearing prior to**

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 seizure of abandoned or derelict structures.

2 (4)(a) Nothing in this section affects the ability of the department to:

3 (A) Investigate and prosecute trespasses on and damage to state lands under ORS
4 273.185; or

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

7 (b) If the department seizes a structure without notice under this subsection and the
8 department wishes to salvage or dispose of the structure, the department shall provide no-
9 tice as provided for in the rules adopted under subsection (3) of this section.

10 **SECTION 3.** (1) Except as may otherwise be provided by the Department of State Lands
11 by rule, the owner of an abandoned structure or derelict structure is liable to the depart-
12 ment for all costs arising out of removal, salvage, storage and disposal of a structure seized
13 under sections 1 to 4 of this 2015 Act. Any order imposing liability for the costs is an order
14 other than a contested case and is subject to review under ORS 183.484.

15 (2) If the department sells a structure seized under sections 1 to 4 of this 2015 Act, the
16 liability imposed under this section shall be reduced by the net proceeds of the sale.

17 (3) Except as may otherwise be provided by the department by rule, an owner of a
18 structure whose only interest in the structure is a security interest is not liable for costs
19 arising out of removal, salvage, storage and disposal of a structure under sections 1 to 4 of
20 this 2015 Act.

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

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

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

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

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

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

35 (b) Assistance with the salvage, towing, storage and disposal of abandoned or derelict
36 vessels pursuant to ORS 830.908 to 830.948; and

37 (c) Engagement in activities to improve water quality, watershed enhancement and fish
38 and wildlife habitat on submerged and submersible lands.

39 (4) The department may use moneys in the fund to provide funding to a state agency,
40 county, city, water improvement district, watershed council, park and recreation district,
41 port district, federally recognized Indian tribe or nonprofit organization to assist the de-
42 partment in completing any of the management and enhancement activities provided for in
43 subsection (3) of this section.

44 (5) The department may recover payments made from the fund from an owner of a
45 structure or vessel who is liable for the costs of removal, salvage, storage and disposal of a

1 **structure under section 3 of this 2015 Act. The department shall deposit all moneys recovered**
2 **under this subsection into the fund.**
3 _____