

RCW 70A.545.070 Liens authorized—Process. (Expires July 1, 2030.)

(1) The agency may file a lien against the petroleum underground storage tank facility where the petroleum underground storage tank is located or property owned by the owner or operator of the petroleum underground storage tank if the agency incurs remedial action costs under RCW 70A.545.060 or demands repayment of costs paid under RCW 70A.545.040 and those costs are not recovered by the agency.

(a) A lien filed under this section may not exceed the remedial action costs incurred or repayments demanded by the agency.

(b) A lien filed under this section has priority in rank over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded, except for local and special district property tax assessments.

(2) Before filing a lien under this section, the agency shall give notice of its intent to file a lien to the owner of the petroleum underground storage tank facility on which the lien is to be filed, mortgagees, and lienholders of record.

(a) The agency shall send the notice by certified mail to the petroleum underground storage tank facility owner and mortgagees of record at the addresses listed in the recorded documents. If the petroleum underground storage tank facility owner is unknown or if a mailed notice is returned as undeliverable, the agency shall provide notice by posting a legal notice in the newspaper of largest circulation in the county in which the site is located. The notice must provide:

(i) A statement of the purpose of the lien;

(ii) A brief description of the real property to be affected by the lien; and

(iii) A statement of the remedial action costs incurred or repayments demanded by the agency.

(b) If the agency has reason to believe that exigent circumstances require the filing of a lien prior to giving notice under this subsection, the agency may file the lien immediately. Exigent circumstances include, but are not limited to, an imminent bankruptcy filing by the petroleum underground storage tank facility owner or the imminent transfer or sale of the real property subject to lien by the petroleum underground storage tank facility owner, or both.

(3) A lien filed under this section is effective when a statement of lien is filed with the county auditor in the county where the petroleum underground storage tank is located. The statement of lien must include a description of the real property subject to lien and the amount of the lien.

(4) Unless the agency determines it is in the public interest to remove the lien, the lien continues until the liabilities for the remedial action costs incurred or repayments demanded by the agency have been satisfied through sale of the real property, foreclosure, or other means agreed to by the agency. Any action for foreclosure of the lien must be brought by the attorney general in a civil action in the court having jurisdiction and in the manner prescribed for judicial foreclosure of a mortgage under chapter 61.24 RCW.

(5) The agency may not file a lien under this section against a petroleum underground storage tank owned by a local government. [2023 c 170 s 8.]