

RCW 70A.345.070 Lien for cost of remedial action—Procedure—

Notice. (Expires July 1, 2030.) (1) The agency may file a lien against the underground storage tank facility if the agency incurs remedial action costs and those costs are unrecovered by the agency.

(a) A lien filed under this section may not exceed the remedial action costs incurred 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 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 underground storage tank facility owner and mortgagees of record at the addresses listed in the recorded documents. If the 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 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 underground storage tank facility owner or the imminent transfer or sale of the real property subject to lien by the 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 underground storage tank facility 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 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 an underground storage tank facility owned by a local government. [2016 c 161 § 7. Formerly RCW 70.340.070.]

Effective date—2016 c 161 §§ 1-13: See note following RCW 70A.345.010.