

**Enrolled**  
**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)

CHAPTER .....

AN ACT

Relating to submerged lands enhancement.

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

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

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

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

(3) **“Derelict structure” means a structure that is on, under or over state-owned submerged or submersible lands and that is:**

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

(b) **Obstructing a waterway;**

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

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

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

(5) **“Marine debris” means any manufactured or processed solid material that:**

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

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

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

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

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

(b) **The owner of the structure has failed to correct the problems identified in the notice within 20 days or a longer reasonable time as specified in the notice provided under the rules adopted under section 5 of this 2015 Act or within any additional time that may be granted by the department.**

(2)(a) **The notice required under subsection (1) of this section must:**

(A) **Identify, with specificity, the department’s proprietary interest in and jurisdiction over the state-owned submerged or submersible lands that the structure is on, under or over;**

(B) **Identify any person that the department has determined may have a potential interest in the structure or the land upon which the structure is located; and**

(C) Be delivered by certified mail, return receipt requested, to any person with a potential interest in the structure or the land upon which the structure is located, as determined by the department after diligent investigation.

(b) As used in this subsection, "diligent investigation" includes but is not limited to a search of the county property records.

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

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

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

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

(b) If the department seizes a structure without notice under this subsection and the department wishes to salvage or dispose of the structure, the department shall provide notice as provided for in the rules adopted under section 5 of this 2015 Act.

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

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

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

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

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

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

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

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

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

(b) Removal and disposal of marine debris;

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

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

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

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

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

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

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

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

**SECTION 6.** Sections 1 to 5 of this 2015 Act are added to and made a part of ORS chapter 274.

Passed by House April 28, 2015

Received by Governor:

Repassed by House July 2, 2015

.....M.,....., 2015

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2015

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 15, 2015

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State