

§1371. Lien established

1. Established. All costs incurred by the State for the abatement, cleanup or mitigation of hazards posed by an uncontrolled hazardous substance site and all interest and penalties shall be a lien against the real estate of the responsible party.

[PL 1987, c. 540 (RPR).]

2. Priority. The priority of a lien filed pursuant to this section shall be governed by the following.

A. Any lien filed pursuant to this section on real estate that encompasses an uncontrolled hazardous substance site has precedence over all encumbrances on the real estate, including liens of the State or any political subdivision, recorded after July 7, 1987. The term "real estate" in this paragraph includes all real estate of a responsible party that has been included in the property description of the affected real estate within the 3-year period preceding the date of filing of the lien or on or after July 7, 1987, whichever period is shorter. [PL 1991, c. 811, §5 (AMD); PL 1991, c. 811, §7 (AFF).]

B. Any lien filed pursuant to this section on any other real estate of the party responsible for the uncontrolled hazardous substance site shall have precedence over all transfers and encumbrances filed after the date that the lien is filed with the registry of deeds. [PL 1987, c. 540 (NEW).]

[PL 1991, c. 811, §5 (AMD); PL 1991, c. 811, §7 (AFF).]

3. Notice. A certificate of lien signed by the Commissioner of Environmental Protection shall be mailed by certified mail, return receipt requested, to all those persons of record holding an interest in the real estate over which the commissioner's lien is entitled to priority under subsection 2, paragraph A. A certificate may be filed for record in the office of the clerk of any municipality in which the real estate is situated.

[PL 1987, c. 540 (RPR).]

4. Recording. Any lien filed pursuant to this section shall be effective when filed with the registry of deeds for the county in which the real estate is located. The lien shall include a description of the real estate, the amount of the lien and the name of the owner as grantor.

[PL 1987, c. 540 (RPR).]

5. Limitation. This section does not apply to a unit of real estate that consists primarily of real estate used or under construction as single or multi-family housing at the time the lien is recorded or to property owned by a political subdivision except for the real estate that encompasses an uncontrolled hazardous substance site and that is owned by a political subdivision.

[PL 1991, c. 811, §6 (AMD); PL 1991, c. 811, §7 (AFF).]

6. Discharge of lien. When the amount with respect to which a lien has been recorded under this section, has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate which is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate shall be recorded in the registry in which the lien was recorded. Any action of the foreclosure of the lien shall be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the property subject to the lien is situated.

[PL 1987, c. 540 (NEW).]

SECTION HISTORY

PL 1987, c. 419, §14 (NEW). PL 1987, c. 540 (RPR). PL 1991, c. 811, §§5,6 (AMD). PL 1991, c. 811, §7 (AFF).

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