

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 389

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to recovery of state costs for oil
7 and hazardous substance releases; and providing for
8 an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 46.08 is amended by adding a new section to read:

11 Sec. 46.08.075. LIENS AGAINST PROPERTY AS SECURITY FOR STATE
12 EXPENDITURES. (a) The state has a lien for expenditures by the state
13 from the oil and hazardous substance release response fund (AS 46.08.-
14 010) or from any other state fund, for the containment, cleanup, or
15 mitigation of oil or hazardous substance spills, against all property
16 owned by a person who is determined by the commissioner to be liable
17 for the expenditures under this chapter, AS 46.03, 46.04, or 46.08,
18 42 U.S.C. sec. 9607, or other state or federal law. The lien includes
19 interest, at the maximum rate allowable under AS 45.45.010(a), from
20 the date of the expenditures.

21 (b) A lien established under this section against real property
22 is not effective unless (1) a certificate of lien is recorded in the
23 district recorder's office for the district in which the property is
24 located, describing the property and stating the amount of the lien,
25 the name of the owner as grantor, and, if known, the name of the
26 person causing the oil or hazardous substance release; and (2) the
27 commissioner mails a copy of the certificate to the persons described
28 in (1) of this subsection and to all other persons of record holding
29 an interest in the property.

1 (c) A lien established under this section is superior to a
2 transfer, mortgage, attachment, claim, demand, or other encumbrance
3 established on or after the effective date of this Act, in any manner
4 affecting the property. This subsection does not apply to real prop-
5 erty that consists exclusively of residential real property. The
6 commissioner may adopt regulations defining "residential real proper-
7 ty" for the purposes of this section.

8 (d) For property consisting exclusively of residential real
9 property, a lien established under this section is superior to a
10 transfer, mortgage, attachment, claim, demand, or other encumbrance on
11 that property recorded after a certificate of lien is recorded under
12 this section on that property.

13 (e) When any amount, with respect to which a lien has been re-
14 corded under this section, has been paid or reduced, the commissioner
15 shall, upon request of the property owner, issue a certificate dis-
16 charging or partially releasing the lien. That certificate may be
17 recorded in the office where the certificate of lien was recorded.

18 (f) A person with an ownership interest in property against
19 which a lien is recorded may bring an action in the superior court to
20 require that the lien be released. The lien must be released if the
21 court finds that the owner of the property is not liable for the costs
22 of the state in connection with containment, cleanup, or mitigation of
23 the oil or hazardous substance release.

24 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).