

Delaware Passes Environmental Lien Bill

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The Delaware legislature passed a bill at the end of its 2013 legislative session authorizing the Delaware Department of Natural Resources and Environmental Control (“DNREC”) to attach a lien to property to recover State funds spent on environmental remediation of that property. The bill authorizes DNREC to impose a lien where a property owner has violated Delaware environmental statutes, including the Delaware Hazardous Substance Cleanup Act and regulations related to underground and aboveground storage tanks, and the DNREC has had to expend State funds to protect human health and the environment. In the event the lien is not sufficient to recover the full amount of funds spent by the State to remediate a site, the bill authorizes DNREC to seek approval in chancery court to impose a lien on other Delaware real estate owned by the liable person or persons. Property owners have the right, under the new statute, to challenge the environmental lien before the Delaware Environmental Appeals Board and to petition to discharge the lien after paying funds to fully satisfy the amount of the lien. With this bill, Delaware joins 34 other states and the Federal government that have statutory authority to impose environmental liens.

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