

2019 Regular Session

SENATE BILL NO. 106

BY SENATOR LAMBERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ENVIRONMENTAL QUALITY. Authorizes liens against certain immovable property for monies expended from the Hazardous Waste Site Cleanup Fund. (8/1/19)

AN ACT

To enact R.S. 30:2205(F), relative to the Hazardous Waste Site Cleanup Fund; to provide for liens by the state against immovable property for monies expended from the fund; to provide priority for the lien by the state; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:2205(F) is hereby enacted to read as follows:

§2205. Hazardous Waste Site Cleanup Fund

* * *

F. The state shall have a lien or privilege against the immovable property for monies expended from the Site Cleanup Fund on the immovable property. The lien may be perfected against such property by filing a notice of lien containing the name of the current record owner and the legal description of the immovable property in the mortgage records of the parish in which the immovable property is located. The lien of the state, through the department, shall have priority in rank over all other privileges, liens, encumbrances, or other security interests affecting the property. As to all privileges, liens, encumbrances, or other security interests affecting the property that are filed

1 or otherwise perfected before the filing of the notice of lien of the state
2 authorized by this Section, such prior recorded security interests shall have
3 priority over the state lien, but only to the extent of the fair market value that
4 the property had prior to closure, assessment, or remedial action by the state,
5 and prior recorded security interests shall be subordinate to the state lien for
6 any amount in excess of the fair market value of the property prior to such
7 closure, assessment, or remediation.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by McHenry Lee.

DIGEST

SB 106 Original

2019 Regular Session

Lambert

Present law provides that in cases where monies from the Hazardous Waste Site Cleanup Fund are expended, the attorney general may institute a civil action to recover from the responsible persons all monies expended from the fund. Further provides that if the secretary requests that the attorney general institute a civil action but declines or does not institute such action within 60 days, the department, with the concurrence of the attorney general may institute a civil action to recover monies expended from the fund.

Proposed law provides that the state will have a lien or privilege against the immovable property for monies expended from the Hazardous Waste Site Cleanup Fund on the immovable property.

Proposed law provides that such liens will have priority in rank over all other privileges, liens, encumbrances, or other security interests affecting the property, unless those privileges, liens, encumbrances, or other security interests are filed before the lien filed as provided by proposed law, in which case they will have priority over the state lien, but only to the extent of the fair market value that the property had prior to closure, assessment, or remedial action by the state.

Effective August 1, 2019.

(Adds R.S. 30:2205(F))