

§1316-E. Lien established

1. Establishment. All costs incurred by the State, including court costs and attorney's fees, for the abatement, cleanup or mitigation of an uncontrolled tire stockpile and all related interest and penalties constitute a lien against the real estate of the responsible party or parties.

[PL 1991, c. 517, Pt. A, §2 (NEW).]

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

A. Any lien filed pursuant to this section on real estate where an uncontrolled tire stockpile is located has precedence over all encumbrances on the real estate recorded after the effective date of this section. For the purposes of this paragraph, the term "real estate" includes all real estate of a responsible party that has been included in the property description of the real estate on which the stockpile is located within the 3-year period preceding the date of the filing of the lien or the period between the effective date of this section and the date on which the lien is filed, whichever period is shorter. [PL 1991, c. 517, Pt. A, §2 (NEW).]

B. Any lien filed pursuant to this section on any other real estate of the responsible party has precedence over all transfers and encumbrances filed after the date that the lien is filed with the registry of deeds. [PL 1991, c. 517, Pt. A, §2 (NEW).]

[PL 1991, c. 517, Pt. A, §2 (NEW).]

3. Notice. A certificate of lien signed by the commissioner must be mailed by certified mail, return receipt requested, to all 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 1991, c. 517, Pt. A, §2 (NEW).]

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

[PL 1991, c. 517, Pt. A, §2 (NEW).]

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 multifamily housing at the time the lien is recorded or to property owned by a municipality.

[PL 1991, c. 517, Pt. A, §2 (NEW).]

6. Discharge of lien. When the amount of a lien recorded under this section has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any foreclosure action on the lien must 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 1991, c. 517, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 517, §A2 (NEW).

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