



# Oregon

Kate Brown, Governor

## Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

[www.oregon.gov/dsl](http://www.oregon.gov/dsl)

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### State Land Board

To: Representative Marty Wilde, Chair, House Committee on General Government  
Representative Gary Leif, Vice-Chair, House Committee on General Government  
Representative John Lively, Vice-Chair, House Committee on General Government  
Members, House Committee on General Government

Kate Brown  
Governor

Shemia Fagan  
Secretary of State

Tobias Read  
State Treasurer

From: Andrea Celentano, Policy and Legislative Analyst, Department of State Lands

### Re: **HB 3371 - Relating to the use of real property of the state.**

Good afternoon, Chair Wilde and members of the House Committee on General Government. For the record my name is Andrea Celentano, Policy and Legislative Analyst with the Department of State Lands. I am here today to provide information about HB 3371 and the Department's work to keep public waterways safe and healthy for all Oregonians. This work includes minimizing the risks posed by private uses of those waterways.

The people of Oregon own the beds and banks of all navigable and tidally influenced waterways throughout the state. The Department of State Lands (DSL) manages these waterways to ensure public use for recreation, navigation, fishing, and commerce.

Marinas, ports, floating homes, docks, and other uses of public waterways are required to obtain authorization from DSL. Authorizations such as leases, easements, and registrations compensate the public for use of their waterways, and ensure the use does not negatively affect the health and safety of public lands or waters.

Requiring authorized uses to obtain insurance and regularly visiting authorized sites are important tools in DSL's oversight of waterway uses. But increasingly complex and costly waterway cleanups have led DSL to examine existing insurance requirements, and highlighted the importance of proactively working with leaseholders and other authorized users.

Current insurance requirements are insufficient to protect the State from the financial liability associated with major waterway cleanup and remediation projects. A striking example is the cleanup in Goble, Oregon that resulted from a marine industrial operation and marina moorage on the Columbia River. After a long process seeking voluntary compliance by the leaseholder, and ultimately enforcement actions, the Department had to terminate the lease and perform remediation work to restore the public waterway. This involved the clean-up and removal of multiple commercial vessels

and hazardous waste. Cleanup costs for this site were more than \$12 million dollars which was not covered by insurance.

While not all cleanups come with a multi-million dollar price tag, insufficient insurance presents an ongoing problem for the state and business owners alike. Derelict and abandoned vessels are becoming a bigger and bigger issue for state agencies and for leaseholders when vessels are abandoned in or drift into their marinas. In these instances, due to limitations in the required insurance policy or exclusionary policy language, the removal of the vessel is not covered. This leaves marinas, many of which are small business, with large unforeseen costs.

Currently, insurance requirements are essentially the same across all uses, whether the business is a large marine industrial facility or a small seasonal marina. The required commercial general liability insurance covers the business and the state from claims that might arise from incidents like a slip and fall, but does not cover vessel removal, pollution remediation, or other issues that can arise from some types of uses.

DSL has identified ways of addressing the issue of insufficient insurance. Evaluating each use application and requiring a tailored insurance package based on the specific site use would help protect both the state and the business owner.

This bill directs the Department to evaluate and consider the actual risks of a proposed activity in authorizing use of public lands for private uses. After evaluating the risks, the Department may then require authorization holders to take actions to either reduce the identified risks or to procure insurance policies sufficient to compensate the state for the possible harms.

This tailored approach will help ensure the wide variety of authorized waterway uses have appropriate insurance coverage to protect businesses and the state from the unforeseen costs of waterway clean-ups.

Proactively reducing risks in this way will require additional staff resources. To implement the bill, the Department will need to evaluate the proposed activity and review the applicant's insurance policies to determine if policies are sufficient to cover potential harms resulting from the proposed activities. Specialized expertise in insurance is required for such a review. DSL does not currently have staff with insurance expertise, which has been a barrier in our ability to address this issue. Additionally, ongoing proactive coordination with authorized users and other stakeholders is needed to proactively address vessel removal and related waterway cleanup issues. The limited duration position that supports this work is currently only funded through the end of this biennium.

Thank you for the opportunity to testify. I am happy to answer any questions.