



**DEPARTMENT OF JUSTICE**  
OFFICE OF THE ATTORNEY GENERAL

**HB 2377: HOLDING POLLUTERS RESPONSIBLE  
FOR ENVIRONMENTAL CLEAN-UP COSTS**

**Problem:**

Under existing law, a corporation or limited liability company (LLC) that followed the statutory procedure for dissolution might have remaining insurance assets. Current statutes (ORS 60.644(3) and ORS 63.644(3)) include language that could bar claims against a dissolved corporation or LLC that could be satisfied, in whole or part, by those insurance assets, resulting in a windfall to the insurer.

This insurer windfall can impose significant costs on others, including the taxpayer. For example, in the environmental contamination context, parties that caused or contributed to contamination might have dissolved years ago, well before the contamination or resulting harm is discovered, but after paying for years of insurance coverage that would address environmental contamination. Many insurance policies that were underwritten prior to 1987 include liability coverage for environmental contamination. While this dynamic can exist in a wide variety of environmental contamination settings, the scope of the issue may be best illustrated by the Portland Harbor Superfund Site (the “PH Site”).

The PH Site consists of approximately ten miles of the Lower Willamette River in Portland which has been contaminated by over a century of industrial activity along the river. Although the PH Site was added to the National Priorities List in December 2000, the cleanup efforts have stalled and harmful levels of contamination have persisted, in part because of the significant costs of cleanup. EPA has estimated the cost to remediate the PH Site to total \$1.7 billion, but this estimate failed to address certain aspects of the cleanup and likely underestimates the cost.

The State of Oregon, through its Department of State Lands and Department of Transportation (the “State”), is a potential responsible party (“PRP”) for costs to remediate the PH Site. The State is working with a number of other PRPs in a confidential alternative dispute resolution process to attempt to allocate responsibility for these costs. One factor complicating this process relates to the existence of orphan PRPs, companies who have contaminated the PH Site but no longer exist. The orphan PRPs include entities who have statutorily dissolved but would likely have insurance assets. Accessing these assets would help to reduce the costs allocated to other PRPs, including the State, and thereby facilitate the allocation process. By making these additional insurance assets available, it would also help to accelerate remediation of the PH Site.

**Solution:**

HB 2377 adds a provision to Oregon law clarifying that a party can pursue claims against a dissolved corporation or LLC to the extent of available insurance assets, subject to otherwise applicable statutes of limitation. The bill is based on similar laws adopted in other states, including Washington and California. The number of cases in which the bill would apply would likely be limited in scope to environmental contamination and other toxic torts since other claims under Oregon law would likely be barred by statutes of limitation.

**Contact:**

Kimberly McCullough, Legislative Director, 503-931-0418, [kimberly.mccullough@doj.state.or.us](mailto:kimberly.mccullough@doj.state.or.us)