

Enrolled Senate Bill 863

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CHAPTER

AN ACT

Relating to cost recovery for fire protection.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 4 of this 2025 Act are added to and made a part of ORS chapter 476.

SECTION 2. (1) As used in this section, “actual cost” means:

(a) Any costs incurred by the State Fire Marshal in controlling or extinguishing a fire under this chapter, including under ORS 476.510 to 476.610; and

(b) Any payments made by the State Fire Marshal as reimbursement for controlling or extinguishing the fire.

(2) If a person is willful, malicious or negligent in the origin or subsequent spread of a fire:

(a) The State Fire Marshal shall mail to the person a written demand for payment of the actual cost of the fire; and

(b) The person shall pay the actual cost of the fire to the State Fire Marshal not more than 90 days after the written demand for payment is mailed.

(3) If the person does not pay the actual cost of the fire as described in subsection (2) of this section:

(a) The amount of the actual cost of the fire shall bear interest at 10 percent per year from the date on which the first written demand for the payment of the actual cost of the fire was mailed by the State Fire Marshal; and

(b) The actual cost of the fire and any interest may be recovered from the person by an action prosecuted in the name of the State of Oregon.

(4) The actual cost of the fire may, at the discretion of the State Fire Marshal, constitute a general lien upon the real and personal property of the person.

(5) A written notice of a lien described in subsection (4) of this section, containing a description of the property and a statement of the actual cost of the fire:

(a) Must be certified under oath by the State Fire Marshal and filed in the office of the county clerk of the county in which the property is situated within 12 months after the calendar year within which the fire originated; and

(b) May be foreclosed in the manner provided by law for foreclosure of liens for labor and material.

(6) A lien created under this section shall cease to exist unless suit for foreclosure is instituted within 12 months from the date of filing of the written notice of the lien under subsection (5) of this section.

(7) In any proceeding to foreclose a lien created under this section, recovery for the plaintiff shall include, in addition to the amount of the actual cost, interest on such amount at the rate of 10 percent per year from the date of the filing of the written notice of the lien under subsection (5) of this section.

(8) Upon request of the State Fire Marshal, the Attorney General shall prosecute an action under this section to recover the actual cost of the fire or foreclose a lien, in the name of the State of Oregon.

(9) In an action under this section to recover the actual cost of a fire or foreclose a lien, the court shall:

(a) Accept an itemized statement of the actual cost of the fire, certified by the State Fire Marshal, as prima facie evidence of the actual cost of the fire; and

(b) At trial and on appeal, award reasonable attorney fees, in addition to costs and disbursements, to the prevailing party.

SECTION 3. (1) At the request of the State Fire Marshal, for the purpose of investigating liability for the actual cost, as defined in section 2 of this 2025 Act, of a fire, the Attorney General may administer oaths and affirmations, take testimony or depositions and by subpoena compel:

(a) The attendance of witnesses;

(b) The production of documents, including but not limited to writings, drawings, graphs, charts, photographs and other data compilations from which information can be obtained and translated; and

(c) The production of any other tangible thing that the Attorney General deems relevant or material to the investigation.

(2) Each witness subpoenaed under subsection (1) of this section shall receive the fees and mileage provided in ORS 44.415 (2).

(3) If a person fails to comply with a subpoena issued under this section, or if a party or witness refuses to testify on any matter under this section, the State Fire Marshal may petition the circuit court of any county to order the person to show cause why the person has failed to comply with the subpoena and should not be held in contempt.

(4) If the State Fire Marshal petitions a circuit court as described in subsection (3) of this section, the State Fire Marshal shall serve the person with the document initiating the contempt action as described in ORS 33.055 (5)(a).

(5) If the State Fire Marshal petitions a circuit court as described in subsection (3) of this section and the person does not show good cause why the person has failed to comply with the subpoena, the circuit court shall compel obedience with the subpoena by proceedings for contempt.

SECTION 4. Under instructions from the State Fire Marshal as to the exercise of state authority, for the purpose of preserving evidence and investigating liability for the actual cost, as defined in section 2 of this 2025 Act, of a fire, a deputy state fire marshal may:

(1) Secure the fire origin area at any time; and

(2) Control, restrict or prohibit access to the fire origin area by unauthorized persons as long as is reasonably necessary, in the judgment of the deputy state fire marshal.

Passed by Senate June 16, 2025

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House June 24, 2025

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Julie Fahey, Speaker of House

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State