

Oklahoma

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Statutory Outline

TITLE 42. LIENS.

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§42-141. Right to lien—Priority—Enforceability against property—Constructive notice.

Any person who shall, under oral or written contract with the owner of any tract or piece of land, perform labor, furnish material or lease or rent equipment used on said land for the erection, alteration or repair of any building, improvement or structure thereon or perform labor in putting up any fixtures, machinery in, or attachment to, any such building, structure or improvements; or who shall plant any tree, vines, plants or hedge in or upon such land; or who shall build, alter, repair or furnish labor, material or lease or rent equipment used on said land for buildings, altering, or repairing any fence or footwalk in or upon said land, or any sidewalk in any street abutting such land, shall have a lien upon the whole of said tract or piece of land, the buildings and appurtenances in an amount inclusive of all sums owed to the person at the time of the lien filing, including, without limitation, applicable profit and overhead costs. If the title to the land is not in the person with whom such contract was made, the lien shall be allowed on the buildings and improvements on such land separately from the real estate. Such liens shall be preferred to all other liens or encumbrances which may attach to or upon such land, buildings or improvements or either of them subsequent to the commencement of such building, the furnishing or putting up of such fixtures or machinery, the planting of such trees, vines, plants or hedges, the building of such fence, footwalk or sidewalks, or the making of any such repairs or improvements; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found, and compliance with the provisions of this act shall constitute constructive notice of the claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or the first use of the rental equipment on said land.

§42-141.1. Transfer of records, funds, and powers and duties to county clerk.

On the effective date of this act, the records, funds and powers and duties relating to the filing of mechanics' and materialmen's liens in the office of the court clerk in each county of this state shall be transferred to the office of the county clerk. The county clerk shall thereafter exercise all such powers and duties formerly performed by the court clerk relating to such liens.

§42-142. Statement to be filed.

Any person claiming a lien as aforesaid shall file in the office of the county clerk of the county in which the land is situated a statement setting forth the amount claimed and the items thereof as nearly as practicable, the names of the owner, the contractor, the claimant, and a legal description of the property subject to the lien, verified by affidavit. Such statement shall be filed within four (4) months after the date upon which material or equipment used on said land was last furnished or labor last performed under contract as aforesaid; and if the claim be for the planting of any trees, vines, plants, or hedge, such statement shall be filed within four (4) months from such planting. Immediately upon the receipt of such statement the county clerk shall enter a record of the same against the tract index and in a book kept for that purpose, to be called the mechanics' lien journal, which shall be ruled off into separate columns, with headings as follows: "When filed", "Name of owner", "Name of claimant", "Amount claimed", "Legal description of property", and "Remarks", and the clerk shall make the proper entry in each column.

§42-142.2. Repealed by Laws 2005, c. 477, §3, eff. Nov. 1, 2005.

§42-142.3. Repealed by Laws 2011, c. 23, §2, eff. Nov. 1, 2011.

§42-142.4. Fraudulent statement—Felony.

Any original contractor who falsifies any statement regarding liens on labor or material to any owner of a dwelling, upon conviction, shall be guilty of a felony.

§42-142.5. Repealed by Laws 2011, c. 23, §2, eff. Nov. 1, 2011.

§42-142.6. Pre-lien notice—Requirements—Affidavit—Penalties.

A. For the purposes of this section:

1. **“Claimant”** means a person, other than an original contractor, that is entitled or may be entitled to a lien pursuant to Section 141 of this title; and
 2. **“Person”** means any individual, corporation, partnership, unincorporated association, or other entity.
- B. 1. Prior to the filing of a lien statement pursuant to Section 143.1 of this title, but no later than seventy-five (75) days after the last date of supply of material, services, labor, or equipment in which the claimant is entitled or may be entitled to lien rights, the claimant shall send to the last-known address of the original contractor and an owner of the property a pre-lien notice pursuant to the provisions of this section. Provided further, no lien affecting property then occupied as a dwelling by an owner shall be valid unless the pre-lien notice provided in this section was sent within seventy-five (75) days of the last furnishing of materials, services, labor or equipment by the claimant.
2. The provisions of this section shall not be construed to require:
 - a. a pre-lien notice with respect to any retainage held by agreement between an owner, contractor, or subcontractor, or
 - b. more than one pre-lien notice during the course of a construction project in which material, services, labor, or equipment is furnished.

A pre-lien notice sent in compliance with this section for the supply of material, services, labor, or equipment that entitles or may entitle a claimant to lien rights shall protect the claimant’s lien rights for any subsequent supply of material, services, labor, or equipment furnished during the course of a construction project.

3. Except as otherwise required in paragraph 1 of this subsection, the pre-lien notice requirements shall not apply to a claimant:

- a. whose claim relates to the supply of material, services, labor, or equipment furnished in connection with a residential project. For the purposes of this subparagraph, the term “residential” shall mean a single family or multifamily project of four or fewer dwelling units, none of which are occupied by an owner, or
 - b. whose aggregate claim is less than Ten Thousand Dollars (\$10,000.00).
4. The pre-lien notice shall be in writing and shall contain, but not be limited to, the following:
- a. a statement that the notice is a pre-lien notice,
 - b. the complete name, address, and telephone number of the claimant, or the claimant’s representative,
 - c. the date of supply of material, services, labor, or equipment,
 - d. a description of the material, services, labor, or equipment,
 - e. the name and last-known address of the person who requested that the claimant provide the material, services, labor, or equipment,
 - f. the address, legal description, or location of the property to which the material, services, labor, or equipment has been supplied,
 - g. a statement of the dollar amount of the material, services, labor, or equipment furnished or to be furnished, and
 - h. the signature of the claimant, or the claimant’s representative.

5. A rebuttable presumption of compliance with paragraph 1 of this subsection shall be created if the pre-lien notice is sent as follows:

- a. hand delivery supported by a delivery confirmation receipt,
- b. automated transaction pursuant to Section 15-115 of Title 12A of the Oklahoma Statutes, or

- c. certified mail, return receipt requested. Notice by certified mail, return receipt requested, shall be effective on the date mailed.

6. The claimant may request in writing, the request to be sent in the manner as provided in paragraph 5 of this subsection, that the original contractor provide to the claimant the name and last-known address of an owner of the property. Failure of the original contractor to provide the claimant with the information requested within five (5) days from the date of receipt of the request shall render the pre-lien notice requirement to the owner of the property unenforceable.

C. At the time of the filing of the lien statement, the claimant shall furnish to the county clerk a notarized affidavit verifying compliance with the pre-lien notice requirements of this section. Any claimant who falsifies the affidavit shall be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

D. Failure of the claimant to comply with the pre-lien notice requirements of this section shall render that portion of the lien claim for which no notice was sent invalid and unenforceable.

§42-143. Lien by or through subcontractor.

Any person who shall furnish any such material or lease or rent equipment used on said land or perform such labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor, may obtain a lien upon such land, or improvements, or both, from the same time, in the same manner, and to the same extent as the original contractor, for the amount due for such material, equipment and labor, as well as any applicable profit and overhead costs due to the person; and any artisan or day laborer in the employ of, and any person furnishing material or equipment used on said land to, such subcontractor may obtain a lien upon such land, or improvements, or both, for the same time, in the same manner, and to the same extent as the subcontractor, for the amount due for such material, equipment used on said land and labor, as well as any applicable profit and overhead costs due to the person, by filing with the county clerk of the county in which the land is situated, within ninety (90) days after the date upon which material or equipment used on said land was last furnished or labor last performed under such subcontract, a statement, verified by affidavit, setting forth the amount due from the contractor to the claimant, and the items thereof, as nearly as practicable, the name of the owner, the name of the contractor, the name of the claimant, and a legal description of the property upon which a lien is claimed. Immediately upon the filing of such statement the county clerk shall enter a record of the same against the tract index and in the journal provided for in the preceding section, and in the manner therein specified. Provided further, that the owner of any land affected by such lien shall not thereby become liable to any claimant for any greater amount than he contracted to pay the original contractor. The risk of all payments made to the original contractor shall be upon such owner until the expiration of the ninety (90) days herein specified, and no owner shall be liable to an action by such contractor until the expiration of said ninety (90) days, and such owner may pay such subcontractor the amount due him from such contractor for such labor, equipment used on said land and material, and the amount so paid shall be held and deemed a payment of said amount to the original contractor.

§42-143.1. Notice—Filing of lien statement—Fees.

A. Within five (5) business days after the date of the filing of the lien statement provided for in Sections 142 and 143 of this title, a notice of the lien shall be mailed by certified mail, return receipt requested, to the owner of the property on which the lien attaches. The claimant shall furnish to the county clerk the last-known mailing address of the person or persons against whom the claim is made and the owner of the property. The notice shall be mailed by the county clerk. The fee for preparing and mailing the notice of mechanics' and materialmen's lien and costs for each additional page or exhibit shall be as provided for in Section 32 of Title 28 of the Oklahoma Statutes and shall be paid by the person filing the lien. The fee shall be deposited into the County Clerk's Lien Fee Account, created pursuant to the provisions of Section 265 of Title 19 of the Oklahoma Statutes.

B. The notice shall contain the date of filing; the name and address of the following: The person claiming the lien; the person against whom the claim is made and the owner of the property; a legal description of the property; and the amount claimed. Provided that, if with due diligence the person against whom the claim is

made or the owner of the property cannot be found, the claimant after filing an affidavit setting forth such facts may, within sixty (60) days of the filing of the lien statement, serve a copy of the notice upon the occupant of the property or the occupant of the improvements, as the case may be, in a like manner as is provided for service upon the owner thereof, or, if the same be unoccupied, the claimant may post a copy in a conspicuous place upon the property or any improvements thereon.

§42-143.2. Repealed by Laws 2005, c. 31, §1, eff. Nov. 1, 2005.

§42-143.3. Leased or rented equipment—Exemption from act.

The provisions of this act as relating to leased or rented equipment shall not apply to real property qualified for homestead exemption or real property used for agricultural purposes or real property used for the production of or growing of agricultural products.

§42-143.4. Leased or rented equipment—Property used for production of oil or gas.

The provisions of this act relating to leased or rented equipment shall not apply to such equipment used for the development or production of oil or gas, except insofar as is specifically allowed by Section 144 of Title 42.

§42-144. Oil and gas well liens.

Any person, corporation, or copartnership who shall, under contract, expressed or implied, with the owner of any leasehold for oil and gas purposes, or the owner of any gas pipeline or oil pipeline, or with the trustee or agent of such owner, perform labor or services, including written contracts for the services of a geologist or petroleum engineer, or furnish material, machinery, and oil well supplies used in the digging, drilling, torpedoing, completing, operating, or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing, or repairing of any gas well, or perform any labor upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, shall have a lien upon the whole of such leasehold or oil pipeline, or gas pipeline, or lease for oil and gas purposes, the buildings and appurtenances, the proceeds from the sale of oil or gas produced therefrom inuring to the working interest, exempting, however, any valid, bona fide reservations of oil or gas payments or overriding royalty interests executed in good faith and payable out of such working interest, and upon the material and supplies so furnished, and upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, and upon the oil or gas well for which they were furnished, and upon all the other oil or gas well fixtures and appliances used in the operating for oil and gas purposes upon the leasehold for which said material and supplies were furnished or labor or services performed. Such lien shall be preferred to all other liens or encumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil or gas pipeline, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found; and compliance with the provisions of this article shall constitute constructive notice of the lien claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or services.

§42-144.1. Effectiveness of lien against purchaser—Delivery of copy of statement of lien.

No lien claimed by virtue of this act, insofar as it may extend to the proceeds from the sale of oil or gas produced from such lease, shall be effective against any purchaser of such oil or gas until a copy of the statement of lien claim required to be filed by the provisions of this chapter has been delivered to such purchaser by registered or certified mail.

§42-144.2. Trust funds for payment of lienable claims.

A. Except as provided by subsection D of this section, the amount payable under any oil and gas well drilling contract, reworking contract, operating agreement, or monies payable as a condition of participation in the drilling of an oil and gas well under the terms of a pooling order issued by the Oklahoma Corporation Commission shall, upon receipt by any oil and gas well operator, contractor or subcontractor, be held by such operator as trust funds for the payment of all lienable claims due and owing by such operator, contractor or subcontractor by reason of such drilling contract, reworking contract, operating agreement, or force pooling order.

B. The trust funds created under subsection A of this section shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

C. The existence of such trust funds shall not prohibit the filing or enforcement of any labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall the filing of such a lien release the holder of such funds from the obligations created under this section.

D. The provisions of this section shall not be applicable or affect payments owed to royalty owners by the operator of an oil or gas well and shall not affect or alter the terms or provisions of Section 87.1 of Title 52 of the Oklahoma Statutes.

§42-145. Oil and gas well lien by or through subcontractor.

Any person, copartnership or corporation who shall furnish such machinery or supplies to a subcontractor under a contractor, or any person who shall perform such labor under a subcontract with a contractor, or who, as an artisan or day laborer in the employ of such contractor, shall perform any such labor, may obtain a lien upon said leasehold for oil and gas purposes or any gas pipeline or any oil pipeline from the same tank and in the same manner and to the same extent as the original contractor for the amount due him for such labor, as provided in the preceding section.

§42-146. Enforcement of lien on oil and gas wells.

The liens created by Sections 144 and 145 of this title shall be enforced pursuant to the provisions of Sections 171 through 178 of this title. Notice of the lien shall be given and the materialman's statement or the lien of any laborer shall be filed, in the same manner as is provided for in Sections 141 through 143.4 of this title, except that Section 142.6 of this title shall not apply to liens created pursuant to Sections 144 and 145 of this title and the statement required to be filed in the office of the county clerk pursuant to Section 143 of this title as to liens created pursuant to Sections 144 and 145 of this title shall be filed within one hundred eighty (180) days after the date upon which material, machinery or supplies were last furnished or labor or services last performed under the relevant contract or subcontract, whichever the case may be. A lien created pursuant to Sections 144 and 145 of this title shall affect only the oil and gas leasehold estate and shall not constitute a lien against or otherwise affect any other interest in the real property involved, except if the owner of an oil, gas or other mineral interest therein shall also own a working interest in a well located thereon, such lien shall attach to said working interest.

§42-147. Repealed by Laws 1982, c. 332, §3.

§42-147.1. Discharge of lien.

Any property owner or other interested party, including but not limited to mortgagees, contractors, subcontractors and others against whom a lien claim is filed under the provisions of the law relating to mechanics' and materialmen's liens, may at any time discharge the lien by depositing with the county clerk in whose office the lien claim has been filed either: An amount of money equal to one hundred twenty-five percent (125%) of the lien claim amount; or a corporate surety bond with a penal amount equal to one hundred twenty-five percent (125%) of the lien claim amount. Within three (3) business days after the deposit of money or bond is made, the county clerk shall serve upon the lien claimant, at the address shown on the lien claim, written notice setting forth: The number of the lien claim; the name of the lien claimant; the name of the property owner; the name of the alleged debtor, if someone other than the property owner; the property description

shown on the lien claim; and the amount of cash deposited or, if a bond is filed, the names of the principal and surety and the bond penalty. The party seeking to discharge the lien shall prepare and deliver the notice to the county clerk and pay a fee in accordance with Section 32 of Title 28 of the Oklahoma Statutes. An abbreviated notice may be used if the same refers to and encloses a copy of the lien claim and either a copy of the cash receipt issued by the county clerk or a copy of the bond with the clerk's filing stamp thereon. The notice shall be mailed by registered or certified mail at the option of the county clerk.

If cash is deposited, the county clerk shall immediately show the lien released of record. If a bond is deposited, the lien claimant shall have ten (10) days after the notice is mailed within which to file a written objection with the county clerk. If a written objection is not timely filed the county clerk shall immediately show the lien released of record. If an objection is timely made, the county clerk shall set a hearing within ten (10) days thereafter and notify by ordinary mail both the lien claimant and the party making the deposit of the date and time thereof. The only grounds for objection shall be that: The surety is not authorized to transact business in this state; the bond is not properly signed; the penal amount is less than one hundred twenty-five percent (125%) of the claim; the power of attorney of the surety's attorney-in-fact does not authorize the execution; there is no power of attorney attached if the bond is executed by anyone other than the surety's president and attested by its secretary; or a cease and desist order has been issued against the surety either by the Insurance Commissioner or a court of competent jurisdiction. Within two (2) business days following the hearing the county clerk shall either sustain or overrule the objections and notify the parties of the county clerk's ruling by ordinary mail. If the objections are sustained, the ruling of the county clerk shall be conclusive for lien release purposes unless appealed within ten (10) days to the district court. If the objections are overruled, the county clerk shall immediately show the lien released of record.

The bond shall: Name the lien claimant as obligee and the party seeking the release as principal; be executed by both the principal and the surety; have a proper power of attorney attached if executed by an attorney-in-fact; be executed by a corporate surety authorized to transact business in this state; and be conditioned that the principal and surety will pay the full amount of the claim as established in any appropriate court proceeding, plus any court costs and attorney fees awarded the lien claimant, but in no event shall the liability of the principal or surety under the bond exceed the bond penalty. The preceding clause shall not limit the common law liability of the party who created the indebtedness upon which the lien claim is based. The conditions of any bond filed pursuant to this section shall be deemed to comply with the requirements hereof, regardless of the language or limitations set forth therein, if both the principal and surety intend that the bond be filed to secure a lien release under this section.

The cash deposit or bond, as the case may be, shall stand in lieu of the released lien, and the lien claimant must proceed against the substituted security in the same time and manner as is required for foreclosure of a lien claim. The cash deposit or bond shall stand liable for such principal, interest, court costs and attorney fees to the extent they could be awarded in a lien foreclosure proceeding.

The only proper parties to an action against the substituted security are: The party making the cash deposit; the bond principal and surety; the party primarily liable for the indebtedness giving rise to the lien claim; and anyone else who may be liable to the lien claimant for the same indebtedness. The party making the cash deposit and the bond principal and surety are necessary parties to an action against the substituted security, and by making a deposit or filing a bond the parties subject themselves to personal jurisdiction in the court where the action is properly filed and may be served with process as in other cases.

If the lien claimant fails to timely file a foreclosure action, upon application of the party making the deposit or filing the bond and the payment of a fee of Ten Dollars (\$10.00), the county clerk shall return the cash to the party making the deposit or appropriately note on the bond that the same has been released. The clerk shall not incur liability to any lien claimant for an inadvertent release of cash or bond. At the end of ten (10) years and after the county clerk has attempted written notification to the lien claimant at the address shown on the lien claim, if no foreclosure has been commenced by the lien claimant or such money has not been withdrawn upon application of the depositing party, the cash deposit plus all accrued interest shall be forfeited to the county general fund.

Nothing contained in this section shall preclude the lien claimant and other interested parties from entering into agreements for the substitution of a different form of security in lieu of the lien claim.

The county clerk shall invest the deposited cash in the manner provided for county treasurers in Section 348.1 of Title 62 of the Oklahoma Statutes. Any interest earned thereon shall become a part of the deposit and be either returned to the party making the deposit, if no action is filed, or paid in accordance with any final judgment rendered by the court in the action against the substituted security. If a district court judgment adverse to the depositing party is entered, in setting the amount of supersedeas bond the court shall take into consideration the existing cash deposit or bond.

§42-148. Lien on mining property for work thereon.

All miners and other employees engaged in the work of developing and opening up coal mines, sinking of shafts, or construction of slopes or drifts, the driving of entries, mining in coal, and every mechanic, builder, artisan, workman, laborer or other person who performs any work or labor in and about such mines, shall have as security for such work and labor performed, a lien therefor upon the buildings, machinery, equipment, inside or outside, income, franchises, leases or subleases and all other appurtenances and all property of the person, owner, agent, firm or corporation owning, constructing or operating such mine or mines, and all property in their possession or under their control, or permitted by the owner to be used in the construction or operation thereof, superior or paramount, whether prior in time or not, to that of all persons interested in such mines as managers, lessees, sublessees, operators, mortgagees, trustees and beneficiaries under trust, or owners.

§42-149. Suit within one year.

The lien provided for in the preceding section shall not be effective unless suit shall be brought within one (1) year after it accrued.

§42-150. Filing statement.

Any person claiming a lien as aforesaid shall file in the office of the county clerk of the county in which the land or property is situated, a statement setting forth the amount claimed and the items thereof, as nearly as practicable, the names of the managers, lessees, sublessees, operators, mortgagees, trustees and beneficiaries under trusts, or owners, the contractor, the claimant and the legal description of the property, subject to such lien and verified by affidavit. Such statement shall be filed within forty-five (45) days after the date upon which such labor was last performed. Upon receipt of such lien statement, the clerk shall enter same against the tract index and in a record kept for that purpose, to be called the mechanics' lien journal. Except as provided herein, the provisions of Sections 92 through 96 and 141 through 147 of this title shall apply with reference to the liens herein created.

§42-151. Lightning rods not included herein.

The erecting and constructing of a lightning rod or rods on any buildings shall not be considered such an improvement fixture or attachment, as to come under the provisions of this chapter.

§42-152. Proceeds of building or remodeling contracts, mortgages or warranty deeds as trust funds for payment of lienable claims.

(1) The amount payable under any building or remodeling contract shall, upon receipt by any contractor or subcontractor, be held as trust funds for the payment of all lienable claims due and owing or to become due and owing by such contractors or subcontractors by reason of such building or remodeling contract.

(2) The monies received under any mortgage given for the purpose of construction or remodeling any structure shall upon receipt by the mortgagor be held as trust funds for the payment of all valid lienable claims due and owing or to become due and owing by such mortgagor by reason of such building or remodeling contract.

(3) The amount received by any vendor of real property under a warranty deed shall, upon receipt by the vendor, be held as trust funds for the payment of all valid lienable claims due and owing or to become due and owing by such vendor or his predecessors in title by reason of any improvements made upon such property within four (4) months prior to the delivery of said deed.

§42-153. Payment of lienable claims.

(1) The trust funds created under Section 152 of this title shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

(2) If the party receiving any money under Section 152 of this title is an entity having the characteristics of limited liability pursuant to law, such entity and the natural persons having the legally enforceable duty for the management of the entity shall be liable for the proper application of such trust funds and subject to punishment under Section 1451 of Title 21 of the Oklahoma Statutes. For purposes of this section, the natural persons subject to punishment shall be the managing officers of a corporation and the managers of a limited liability company.

(3) The existence of such trust funds shall not prohibit the filing or enforcement of a labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall the filing of such a lien release the holder of such funds from the obligations created under this section or Section 152 of this title.

§42-154. Corporations—Execution, attestation, seal or acknowledgment of lien statement—Release of lien.

Any lien statement authorized by the provisions of Sections 141 through 164 of Title 42 of the Oklahoma Statutes when executed on behalf of a corporation may be signed and verified by any officer or agent of said corporation without the necessity of attestation, seal, or acknowledgment and any release of such lien when executed on behalf of a corporation may be signed by any officer or agent of such corporation without the necessity of attestation, seal, or acknowledgment.

With respect to the execution and release of lien statements in accordance with this section the provisions of Sections 15, 93, 94 and 95 of Title 16 of the Oklahoma Statutes shall not apply.

§42-161. Right to lien against railroads.

Every mechanic, builder, artisan, workman, laborer, or other person, who shall do or perform any work or labor upon, or furnish any materials, machinery, fixtures or other thing towards the equipment, or to facilitate the operation of any railroad, shall have a lien therefor upon the roadbed, buildings, equipments, income, franchises, and all other appurtenances of said railroad, superior and paramount, whether prior in time or not, to that of all persons interested in said railroad as managers, lessees, mortgagees, trustees beneficiaries under trusts or owners.

§42-162. Limitations.

The lien mentioned in the preceding section shall not be effectual unless suit shall be brought upon the claim within one (1) year after it accrued.

§42-163. How enforced.

The said lien shall be mentioned in the judgment rendered for the claimant in an ordinary suit for the claim, and may be enforced by ordinary levy and sale under final or other process at law or equity.

§42-164. Notice.

A notice of ten (10) days shall be given to the railroad of the existence of a claim or the intended lien which is contemplated under this article.

§42-171. Assignment of liens.

All claims for liens and rights of action to recover therefor hereunder shall be assignable so as to vest in the assignee all rights and remedies herein given, subject to all defenses thereto that might be made if such assignment had not been made. Where a statement has been filed and recorded as provided in Section 142 of this title, such assignment may be made by an entry, on the same page of the mechanics' lien journal containing the record of the lien, signed by the claimant or his lawful representative, and attested by the county clerk; or such assignment may be made by a separate instrument in writing.

§42-172. Enforcement by civil actions—Limitations—Practice, pleading and proceeding—Amendment of lien statement.

Any lien provided for by this chapter may be enforced by civil action in the district court of the county in which the land is situated, and such action shall be brought within one (1) year from the time of the filing of said lien with the county clerk. The practice, pleading and proceedings in such action shall conform to the rules prescribed by the code of civil procedure as far as the same may be applicable; and in case of action brought, any lien statement may be amended by leave of court in furtherance of justice as pleadings may be in any matter, except as to the amount claimed.

§42-173. Parties.

In such actions all persons whose liens are filed as herein provided shall be made parties, and issues shall be made and trials had as in other cases. Where such action is brought by a subcontractor, or other person not the original contractor, such original contractor shall be made a party defendant, and shall at his own expense defend against the claim of every subcontractor, or other person claiming a lien under this chapter, and if he fails to make such defense the owner may make the same at the expense of such contractor; and until all such claims, costs and expenses are finally adjudicated, and defeated or satisfied, the owner shall be entitled to retain from the contractor the amount thereof, and such costs and expenses as he may be required to pay: Provided, that if the sheriff of the county in which such action is pending shall make return that he is unable to find such original contractor, the court may proceed to adjudicate the liens upon the land and render judgment to enforce the same with costs.

§42-174. Consolidation of actions and stay of trial.

If several actions brought to enforce the liens herein provided for are pending at the time, the court may order them to be consolidated; and in any action brought to enforce a lien, if the building or other improvement is still in course of construction, the court, on application of any party engaged in furnishing labor or materials for such building or improvement, may stay the trial thereof for a reasonable time to permit the filing of a lien statement by such party as herein provided.

§42-175. Sale of property after judgment.

In all cases where judgment may be rendered in favor of any person or persons to enforce a lien under the provisions of this chapter, the real estate or other property shall be ordered to be sold as in other cases of sales of real estate, such sales to be without prejudice to the rights of any prior encumbrancer, owner or other person not a party to the action.

§42-176. Attorney's fees.

In an action brought to enforce any lien the party for whom judgment is rendered shall be entitled to recover a reasonable attorney's fee, to be fixed by the court, which shall be taxed as costs in the action.

§42-177. Suit by owner to determine lien and cancellation of lien on docket.

If any lien shall be filed under the provisions of this chapter, and no action to foreclose such lien shall have been commenced, the owner of the land may file his petition in the district court of the county in which said land is situated, making said lien claimants defendants therein, and praying for an adjudication of said lien so claimed, and if such lien claimant shall fail to establish his lien, the court may tax against said claimant the whole, or such portion of the costs of such action as may be just. Provided, that if no action to foreclose or adjudicate any lien filed under the provisions of this chapter shall be instituted within one (1) year from the filing of said lien, the lien is canceled by limitation of law. If a lien is canceled by limitation of law, the owner of the land may file an affidavit attesting to the cancellation with the county clerk of the county in which the land is located. Upon receipt of the affidavit, the county clerk shall attach the affidavit to the original lien document in the lien docket file and enter a notation of the filing in the mechanics' lien journal. The affidavit shall be on a form prescribed by the Office of the Administrative Director of the Courts.

§42-178. Proceeds insufficient.

If the proceeds of the sale be insufficient to pay all the claimants, then the court shall order them to be paid in proportion to the amount due each.

§42-180. Liens against manufactured homes—Repossession—Notice.

A. Unless the owner of the real property on which a manufactured home is located has a possessory lien with priority over a creditor having a perfected security interest or a lien recorded on the document of title issued on the manufactured home, it shall be unlawful for the owner of the real property to refuse to allow the secured creditor to repossess and move the manufactured home. If the owner of the real property on which a manufactured home is located has a possessory lien pursuant to Section 91 or Section 91A of this title, and a creditor with a perfected security interest in that manufactured home pays to the owner of real property that portion of the possessory lien having priority over the creditor, the owner of the real property must allow the creditor to repossess and move the manufactured home. If the owner of the real property refuses to allow the creditor to repossess and move the manufactured home as required by this subsection, that owner of real property shall be liable to the creditor for each day that the owner of the real property unlawfully maintains possession of the manufactured home at a daily rate equal to one-thirtieth (1/30) of the monthly rental or storage payment last paid by the consumer to the owner of the real property, or if no payment has been made, the payment required pursuant to the contract between the secured creditor and the consumer. The prevailing party shall be entitled to reasonable attorney fees and costs.

B. Upon the bankruptcy of a consumer owning a manufactured home located on real property owned by another person and subject to rental or storage charges, the secured creditor shall, within five (5) days after receipt of notice of the bankruptcy, give notice to the owner of the real estate by certified mail, return receipt requested, if the location of the manufactured home is known. If the secured creditor fails to give required notice to the owner of the real estate, the creditor will be liable for post-bankruptcy-filing storage or rental charges not paid by the trustee in bankruptcy.

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