

# Oregon

[https://www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx)

## Statutory Outline

### VOLUME 2. BUSINESS ORGANIZATIONS, COMMERCIAL CODE.

#### CHAPTER 87. STATUTORY LIENS.

##### STATUTORY LIENS

##### MORTGAGES AND LIENS

##### CONSTRUCTION LIENS

Section 87.001	Short title
Section 87.005	Definitions for ORS 87.001 to 87.060 and 87.075 to 87.093
Section 87.007	Protection from construction liens perfected after sale of residential property completed; requirements; seller options; rules; delivery of form to purchaser; penalty; damages; defenses
Section 87.010	Construction liens; who is entitled to lien
Section 87.015	Land and interests therein subject to lien; leaseholds
Section 87.018	Delivery of notices
Section 87.021	Notice to owners; notice from owner to original contractor; effect of failure to give notice
Section 87.023	Notice of right to lien; form of notice
Section 87.025	Priority of perfected liens; right to sell improvements separately from land; notice to mortgagee; list of materials or supplies
Section 87.027	Right of owner to demand list of services, materials, equipment and labor; penalty for failure to provide list
Section 87.030	Effect of owner's knowledge of improvement; notice of nonresponsibility
Section 87.035	Perfecting lien; filing claim of lien; contents of claim
Section 87.036	Subcontractor's perfection of claim of lien; notice; fee; rules
Section 87.037	Prohibition against claim of lien
Section 87.039	Notice of filing claim of lien; effect of failure to give notice
Section 87.045	Completion date of improvement; notice of completion, abandonment or nonabandonment; contents of notice
Section 87.050	Recording
Section 87.055	Duration of lien; when suit to enforce lien commences
Section 87.057	Notice of intent to foreclose; list of materials furnished and statement of prices; effect of failure to give notice
Section 87.059	[Repealed]
Section 87.060	Foreclosure; right to jury trial; distribution of proceeds of foreclosure sale
Section 87.070	Amount of recovery by contractor; respective rights of contractor and owner
Section 87.075	Exemption of building materials from attachment by third persons
Section 87.076	Bond or deposit of money; amount; demand for release of lien; effect
Section 87.078	Notice of filing bond or depositing money; contents of notice; effect of failure to give notice

Section 87.081	Filing affidavit with county officer
Section 87.083	Foreclosure after filing of bond or deposit of money; effect of filing or deposit; disposition of bond or money
Section 87.086	Determination of adequacy of bond
Section 87.088	Release of lien or return of money
Section 87.089	Limitations on actions
Section 87.093	Information Notice to Owner; rules; contents; when notice must be delivered; effect of failure to deliver notice; penalty

#### LIENS GENERALLY

Section 87.142	Definitions for ORS 87.142 to 87.490 and 87.910
Section 87.146	Priorities of liens

#### MISCELLANEOUS PROVISIONS

Section 87.910	Cost of preparing lien notice
Section 87.920	Recording of document not to create lien, affect title or constitute notice except as authorized by law
Section 87.930	Secretary of State to furnish list of persons who have filed financing statement

## VOLUME 17. OCCUPATIONS.

### CHAPTER 701. CONSTRUCTION CONTRACTORS AND CONTRACTS.

#### CONSTRUCTION CONTRACTORS AND CONTRACTOR

#### OCCUPATIONS AND PROFESSIONS

Section 701.131	License required to perfect lien or obtain judicial or administrative remedy; exception
Section 701.305	Requirement for written contract with residential property owner; standard contractual terms; rules

## VOLUME 2. BUSINESS ORGANIZATIONS, COMMERCIAL CODE.

### CHAPTER 87. STATUTORY LIENS.

#### STATUTORY LIENS

#### MORTGAGES AND LIENS

#### CONSTRUCTION LIENS

**87.001. Short title.** ORS .001 to .060 and .075 to .093 shall be known and may be cited as the Construction Lien Law.

**87.005. Definitions for ORS .001 to .060 and .075 to .093.** As used in ORS .001 to .060 and .075 to .093:

- (1) **“Commencement of the improvement”** means the first actual preparation or construction upon the site or the first delivery to the site of materials of such substantial character as to notify interested persons that preparation or construction upon the site has begun or is about to begin.
- (2) **“Construction”** means creating or making an improvement or performing an alteration, partial construction or repair in and upon an improvement.
- (3) **“Construction agent”** means a contractor, architect, builder or other person having charge of construction or preparation.
- (4) **“Contractor”** means a person that contracts on predetermined terms to be responsible for performing all or part of a job of preparation or construction in accordance with established specifications or plans, retaining control of the means, method and manner of accomplishing the desired result, and that provides:
  - (a) Labor at the site; or
  - (b) Materials, supplies and labor at the site.
- (5) **“Improvement”** means a building, wharf, bridge, ditch, flume, reservoir, well, tunnel, fence, street, sidewalk, machinery, aqueduct or other structure or superstructure.

(6) **“Mortgagee”** means a person:

(a)(A) Whose name and address appear as mortgagee or beneficiary in a mortgage of record or a trust deed of record that is recorded under ORS 205.234 with the county clerk of the county within which the property or improvement is located; and

(B) That has a valid subsisting mortgage of record or trust deed of record that secures a loan upon land or upon an improvement; or

(b)(A) Whose name and address appear as the assignee of the mortgagee or beneficiary in an assignment of mortgage of record or a trust deed of record that is recorded under ORS 205.234 with the county clerk of the county within which the property or improvement is located; and

(B) That has a valid subsisting mortgage of record or trust deed of record that secures a loan upon land or upon an improvement.

(7) **“Original contractor”** means a contractor that has a contractual relationship with the owner.

(8) **“Owner”** means:

(a) A person that is or claims to be the owner in fee or a lesser estate of the land on which preparation or construction is performed;

(b) A person that entered into a contract to purchase an interest in the land or improvement sought to be charged with a lien created under ORS .010; or

(c) A person that has a valid lease on land or an improvement and that possesses an interest in the land or improvement by reason of the lease.

(9) **“Preparation”** means excavating, surveying, landscaping, demolishing or detaching existing structures or leveling, filling in or otherwise making land ready for construction.

(10) **“Site”** means the land on which construction or preparation is performed.

(11) **“Subcontractor”** means a contractor that has no direct contractual relationship with the owner.

**87.007. Protection from construction liens perfected after sale of residential property completed; requirements; seller options; rules; delivery of form to purchaser; penalty; damages; defenses.**

(1) This section applies to a sale of the following residential property:

(a) A new single-family residence or a single-family residence where the sales price is \$50,000 or more for original construction or the contract price is \$50,000 or more for improvements to the residence completed within three months before the date the property is sold.

(b) A new condominium unit or a condominium unit where the sales price is \$50,000 or more for original construction or the contract price is \$50,000 or more for improvements to the condominium unit completed within three months before the date the property is sold. As used in this paragraph, “condominium unit” has the meaning given that term in ORS 100.005.

(c) A new residential building or a residential building where the sales price is \$50,000 or more for original construction or the contract price is \$50,000 or more for improvements to the residential building completed within three months before the date the property is sold. As used in this paragraph, “residential building” means a building or structure that contains not more than four dwelling units capable of use as residences or homes.

(2) An owner of record at the time the owner of record sells residential property to a purchaser shall protect the purchaser from claims of lien that arise before the date on which the sale is complete but that may become perfected under ORS .035 after the date on which the sale is complete by one of the following methods:

(a) Purchase or otherwise provide title insurance on the purchaser’s behalf by means of a policy issued:

(A) Without exception for filed and unfiled claims of construction lien that exist at the closing date of the purchase; and

(B) On forms and at rates filed with, but not disapproved by, the Director of the Department of Consumer and Business Services.

(b) Retain in escrow, as defined in ORS 696.505, an amount of funds that is not less than 25 percent of the sale price of the residential property. The funds must be maintained in or released from escrow in accordance with written instructions to the escrow agent from the purchaser and the owner that sold the property. The written instructions shall require the escrow agent to pay upon the purchaser’s demand a claim of lien that is perfected after the date of the sale of the property and that the owner that sold the property has not

paid. The escrow agent shall make the payment from the amount maintained in escrow. The escrow agent shall release the unused funds from escrow to the owner that sold the property if the escrow agent receives a request from the owner that sold the property and the owner that sold the property provides documentation from a title company that:

(A) A claim of lien has not been perfected against the property and 90 days have passed since the date that construction was completed; or

(B) A claim of lien has been perfected against the property, that 135 days have passed since the date that each such claim of lien was filed and that all perfected claims of lien have been released or waived.

(c) Maintain a bond or letter of credit in an amount that is not less than 25 percent of the sale price of the property. The Construction Contractors Board shall prescribe by rule the amount, terms and conditions of the bond or letter of credit to be maintained under this paragraph.

(d) Obtain written waivers from every person that claims or perfects a lien or liens under ORS .010 or .035 that, in an aggregate amount, exceed \$5,000 with respect to the property and provide copies of the waivers to the purchaser not later than the date the sale of the property is completed.

(e) Complete the sale of the residential property after the deadline for perfecting a claim of lien under ORS .035 with respect to the property.

(3) Not later than the date on which the sale of the residential property is completed, the owner who sold the property shall complete, sign and deliver to the purchaser a form that specifies the method that the owner has selected to comply with the requirements of subsection (2) of this section or that states that subsection (2) of this section does not apply to the sale of the property. The notice must be in a form the Construction Contractors Board designates by rule under ORS 701.235.

(4) A real estate licensee, as defined in ORS 696.010, acting in the professional capacity of a licensee is not liable in a criminal, civil or administrative proceeding that arises out of the failure of an owner of record to comply with subsection (2) or (3) of this section.

(5) Violation of subsection (3) of this section is a Class A violation.

(6) In addition to any other remedy or penalty provided by law, a purchaser may bring an action to recover up to twice the amount of actual damages caused by a violation of subsection (2) of this section. The court may award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees. Any action brought under this subsection must be commenced not later than two years after the date on which the sale of the property is completed.

(7) For purposes of subsections (5) and (6) of this section and ORS 646.608:

(a) It is a defense to a violation of subsection (2) or (3) of this section that no enforcement or attempt to enforce a claim of lien against the property that is the subject of the sale occurred before the date the sale of the property was completed; and

(b) As to a claim of lien, it is a defense to a violation of subsection (2) or (3) of this section if the owner that sold the property:

(A) Proves that the claim of lien against the property that is the subject of the sale is invalid; or

(B) Satisfies the claim of lien or obtains a release from the claim of lien on the property that is the subject of the sale.

(8) A violation of subsection (2) or (3) of this section does not occur with respect to a lien described in ORS .010 during the period that the validity of the lien is disputed in a judicial proceeding or a proceeding described in ORS chapter 701.

(9) Nothing in this section requires the payment of a lien that is not otherwise valid. This section does not apply to claims of lien perfected by persons that furnish materials, equipment, services or labor at the request of the purchaser of the residential property.

**87.010. Construction liens; who is entitled to lien.** (1) Any person performing labor upon, transporting or furnishing any material to be used in, or renting equipment used in the construction of any improvement shall have a lien upon the improvement for the labor, transportation or material furnished or equipment rented at the instance of the owner of the improvement or the construction agent of the owner.

(2) Any person who engages in or rents equipment for the preparation of a lot or parcel of land, or improves or rents equipment for the improvement of a street or road adjoining a lot or parcel of land at the request of the owner of the lot or parcel, shall have a lien upon the land for work done, materials furnished or equipment rented.

(3) A lien for rented equipment under subsection (1) or (2) of this section shall be limited to the reasonable rental value of the equipment notwithstanding the terms of the underlying rental agreement.

(4) Trustees of an employee benefit plan shall have a lien upon the improvement for the amount of contributions, due to labor performed on that improvement, required to be paid by agreement or otherwise into a fund of the employee benefit plan.

(5) An architect, landscape architect, land surveyor or registered engineer who, at the request of the owner or an agent of the owner, prepares plans, drawings or specifications that are intended for use in or to facilitate the construction of an improvement or who supervises the construction shall have a lien upon the land and structures necessary for the use of the plans, drawings or specifications so provided or supervision performed.

(6) A landscape architect, land surveyor or other person who prepares plans, drawings, surveys or specifications that are used for the landscaping or preparation of a lot or parcel of land or who supervises the landscaping or preparation shall have a lien upon the land for the plans, drawings, surveys or specifications used or supervision performed.

**87.015. Land and interests therein subject to lien; leaseholds.** (1) The site together with the land that may be required for the convenient use and occupation of the improvement constructed on the site, to be determined by the court at the time of the foreclosure of the lien, shall also be subject to the liens created under ORS .010 (1), (4) and (5) if, at the time of the commencement of the improvement, the person who caused the improvement to be constructed was the owner of that site and land. If the person owned less than a fee-simple estate in the site and land, then only the interest of the person therein shall be subject to the lien.

(2) If a lien created under ORS .010 (1), (4) and (5) is claimed against a unit as defined in ORS 100.005 to 100.910, the Oregon Condominium Act, the common elements appertaining to that unit are also subject to the lien.

(3) When the interest of the person who caused the improvement to be constructed is a leasehold interest, and that person has forfeited the rights of the person thereto, the purchaser of the improvement and leasehold term at any sale under the provisions of ORS .001 to .060 and .075 to .093, is deemed to be the assignee of the leasehold term, and may pay the lessor all arrears of rent or other money and costs due under the lease. If the lessor regains possession of the property, or obtains judgment for the possession thereof prior to the commencement of construction of the improvement, the purchaser may remove the improvement within 30 days after the purchaser purchases it, and the owner of the land shall receive the rent due the owner, payable out of the proceeds of the sale, according to the terms of the lease, down to the time of removal.

**87.018. Delivery of notices.** (1) Except as provided in ORS .093, all notices required under ORS .001 to .060 and .075 to .093 must be in writing and be delivered in person or by registered or certified mail.

(2) A notice that must be given under ORS .001 to .060 or .075 to .093 to a mortgagee must be delivered to the mortgagee only if the name and address of the mortgagee appear in a mortgage of record or a trust deed of record as required under ORS 205.234 (1)(b) or in the instrument that assigns a mortgage or trust deed as required under ORS 205.234 (1)(g).

**87.021. Notice to owners; notice from owner to original contractor; effect of failure to give notice.** (1) Except when material, equipment, services or labor described in ORS .010 (1) to (3), (5) and (6) is furnished at the request of the owner, a person furnishing any materials, equipment, services or labor described in ORS .010 (1) to (3), (5) and (6) for which a lien may be perfected under ORS .035 shall give a notice of right to a lien to the owner of the site. The notice of right to a lien may be given at any time during the progress of the improvement, but the notice only protects the right to perfect a lien for materials, equipment and labor or services provided after a date which is eight days, not including Saturdays, Sundays and other holidays as defined in ORS 1.010, before the notice is delivered or mailed. However, no lien is created under ORS .010 (5) or (6) for any services provided for an owner-occupied residence at the request of an agent of the owner.

(2) The notice required by subsection (1) of this section shall be substantially in the form set forth in ORS .023.

(3)(a) Except as provided in paragraph (b) of this subsection, a lien created under ORS .010 (1) to (3), (5) or (6) may be perfected under ORS .035 only to the extent that the notice required by subsection (1) of this section is given.

(b) A person who performs labor upon a commercial improvement or provides labor and material for a commercial improvement or who rents equipment used in the construction of a commercial improvement need not give the notice required by subsection (1) of this section in order to perfect a lien created under ORS .010.

As used in this paragraph:

(A) "Commercial improvement" means any structure or building not used or intended to be used as a residential building, or other improvements to a site on which such a structure or building is to be located.

(B) "Residential building" means a building or structure that is or will be occupied by the owner as a residence and that contains not more than four units capable of being used as residences or homes.

(4) Unless otherwise agreed or the lien claimant who is required to give the notice under subsection (1) of this section is in privity with the original contractor, when a provision in an agreement for the construction of a commercial improvement requires the original contractor to hold an owner harmless or to indemnify an owner for a lien created under ORS .010 and perfected under ORS .035, that provision is not enforceable as to any lien which requires that a notice under this section be given to the owner unless a copy of the notice is delivered pursuant to ORS .018 to the original contractor not later than 10 days after its receipt by the owner.

**87.023. Notice of right to lien; form of notice.** The notice of right to a lien required under ORS .021 shall include, but not be limited to, the following information and shall be substantially in the following form:

---

NOTICE OF RIGHT TO A LIEN. WARNING:

READ THIS NOTICE. PROTECT YOURSELF FROM PAYING ANY CONTRACTOR OR SUPPLIER TWICE FOR THE SAME SERVICE.

To: \_\_\_\_\_ Date of mailing: \_\_\_\_\_

Owner

\_\_\_\_\_  
Owner's address

This is to inform you that \_\_\_\_\_ has begun to provide \_\_\_\_\_ (description of materials, equipment, labor or services) ordered by \_\_\_\_\_ for improvements to property you own. The property is located at \_\_\_\_\_.

A lien may be claimed for all materials, equipment, labor and services furnished after a date that is eight days, not including Saturdays, Sundays and other holidays, as defined in ORS 1.010, before this notice was mailed to you.

Even if you or your mortgage lender have made full payment to the contractor who ordered these materials or services, your property may still be subject to a lien unless the supplier providing this notice is paid.

THIS IS NOT A LIEN. It is a notice sent to you for your protection in compliance with the construction lien laws of the State of Oregon.

This notice has been sent to you by:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, FEEL FREE TO CALL US.

IMPORTANT INFORMATION ON REVERSE SIDE

---

---

**IMPORTANT INFORMATION FOR YOUR PROTECTION**

Under Oregon’s laws, those who work on your property or provide labor, equipment, services or materials and are not paid have a right to enforce their claim for payment against your property. This claim is known as a construction lien.

If your contractor fails to pay subcontractors, material suppliers, rental equipment suppliers, service providers or laborers or neglects to make other legally required payments, the people who are owed money can look to your property for payment, even if you have paid your contractor in full.

The law states that all people hired by a contractor to provide you with materials, equipment, labor or services must give you a notice of right to a lien to let you know what they have provided.

**WAYS TO PROTECT YOURSELF ARE:**

- RECOGNIZE that this notice of right to a lien may result in a lien against your property unless all those supplying a notice of right to a lien have been paid.
  - LEARN more about the lien laws and the meaning of this notice by contacting the Construction Contractors Board, an attorney or the firm sending this notice.
  - ASK for a statement of the labor, equipment, services or materials provided to your property from each party that sends you a notice of right to a lien.
  - WHEN PAYING your contractor for materials, equipment, labor or services, you may make checks payable jointly to the contractor and the firm furnishing materials, equipment, labor or services for which you have received a notice of right to a lien.
  - OR use one of the methods suggested by the “Information Notice to Owners.” If you have not received such a notice, contact the Construction Contractors Board.
  - GET EVIDENCE that all firms from whom you have received a notice of right to a lien have been paid or have waived the right to claim a lien against your property.
  - CONSULT an attorney, a professional escrow company or your mortgage lender.
- 

**87.025. Priority of perfected liens; right to sell improvements separately from land; notice to mortgagee; list of materials or supplies.** (1) A lien created under ORS .010 (2) or (6) and perfected under ORS .035 upon any lot or parcel of land shall be preferred to any lien, mortgage or other encumbrance which attached to the land after or was unrecorded at the time of commencement of the improvement.

(2) Except as provided in subsections (3) and (6) of this section, a lien created under ORS .010 (1), (4) or (5) and perfected under ORS .035 upon any improvement shall be preferred to all prior liens, mortgages or other encumbrances upon the land upon which the improvement was constructed. To enforce such lien the improvement may be sold separately from the land; and the purchaser may remove the improvement within a reasonable time thereafter, not to exceed 30 days, upon the payment to the owner of the land of a reasonable rent for its use from the date of its purchase to the time of removal. If such removal is prevented by legal proceedings, the 30 days shall not begin to run until the final determination of such proceedings in the court of first resort or the appellate court if appeal is taken.

(3) No lien for materials or supplies shall have priority over any recorded mortgage or trust deed on either the land or improvement unless the person furnishing the material or supplies, not later than eight days, not

including Saturdays, Sundays and other holidays as defined in ORS 1.010, after the date of delivery of material or supplies for which a lien may be claimed delivers to the mortgagee either a copy of the notice given to the owner under ORS .021 to protect the right to claim a lien on the material or supplies or a notice in any form that provides substantially the same information as the form set forth in ORS .023.

(4) A mortgagee who has received notice of delivery of materials or supplies in accordance with the provisions of subsection (3) of this section, may demand a list of those materials or supplies including a statement of the amount due by reason of delivery thereof. The list of materials or supplies shall be delivered to the mortgagee within 15 days, not including Saturdays, Sundays and other holidays as defined in ORS 1.010, of receipt of demand, as evidenced by a receipt or a receipt of delivery of a registered or certified letter containing the demand. Failure to furnish the list or the amount due by the person giving notice of delivery of the materials or supplies shall constitute a waiver of the preference provided in subsections (1) and (2) of this section.

(5) Upon payment and acceptance of the amount due to the supplier of materials or supplies, and upon demand of the person making payment, the supplier shall execute a waiver of all lien rights as to materials or supplies for which payment has been made.

(6) Unless the mortgage or trust deed is given to secure a loan made to finance the alteration or repair, a lien created under ORS .010 and perfected under ORS .035 for the alteration and repair of an improvement commenced and made subsequent to the date of record of a duly executed and recorded mortgage or trust deed on that improvement or on the site shall not take precedence over the mortgage or trust deed.

(7) The perfection of a lien under ORS .035 relates to the date of commencement of the improvement as defined in ORS .005. Except as provided in subsection (3) of this section, the date of creation of the lien under ORS .010 and the date of perfection of the lien under ORS .035 do not affect the priorities under this section, the equal priority of perfected lien claimants, or the distribution of proceeds to perfected lien claimants under ORS .060 (6).

**87.027. Right of owner to demand list of services, materials, equipment and labor; penalty for failure to provide list.** An owner who receives a notice of right to a lien in accordance with the provisions of ORS .021 may demand, in writing, from the person providing materials, equipment, services or labor a list of materials or equipment or description of labor or services supplied or a statement of the contractual basis for supplying the materials, equipment, services or labor, including the percentage of the contract completed, and the charge therefor to the date of the demand. The supplier's statement shall be delivered to the owner within 15 days, not including Saturdays, Sundays and other holidays as defined in ORS 1.010, of receipt of the owner's written demand, as evidenced by a receipt or a receipt of delivery of a certified or registered letter containing the demand. Failure of the supplier to furnish the information requested constitutes a loss of attorney fees and costs otherwise allowable in a suit to foreclose a lien.

**87.030. Effect of owner's knowledge of improvement; notice of nonresponsibility.** (1) Every improvement except an improvement made by a person other than the landowner in drilling or boring for oil or gas, constructed upon lands with the knowledge of the owner shall be deemed constructed at the instance of the owner, and the interest owned shall be subject to any lien perfected pursuant to the provisions of ORS .001 to .060 and .075 to .093, unless the owner shall, within three days after the owner obtains knowledge of the construction, give notice that the owner will not be responsible for the same by posting a notice in writing to that effect in some conspicuous place upon the land or the improvement situated thereon.

(2) Subsection (1) of this section does not apply to a lien prohibited under ORS .037.

**87.035. Perfecting lien; filing claim of lien; contents of claim.** (1) Every person claiming a lien created under ORS .010 (1) or (2) shall perfect the lien not later than 75 days after the person has ceased to provide labor, rent equipment or furnish materials or 75 days after completion of construction, whichever is earlier. Every other person claiming a lien created under ORS .010 shall perfect the lien not later than 75 days after the completion of construction. All liens claimed shall be perfected as provided by subsections (2) to (4) of this section.

(2) A lien created under ORS .010 shall be perfected by filing a claim of lien with the recording officer of the county or counties in which the improvement, or some part thereof, is situated.

(3) A claim of lien shall contain:



- (a) A true statement of demand, after deducting all just credits and offsets;
  - (b) The name of the owner, or reputed owner, if known;
  - (c) The name of the person by whom the claimant was employed or to whom the claimant furnished the materials or rented the equipment or by whom contributions are owed; and
  - (d) A description of the property to be charged with the lien sufficient for identification, including the address if known.
- (4) The claim of lien shall be verified by the oath of the person filing or of some other person having knowledge of the facts, subject to the criminal penalties for false swearing provided under ORS 162.075.

**87.036. Subcontractor's perfection of claim of lien; notice; fee; rules.** (1) A subcontractor or a person that provides labor, materials or equipment for a project to renovate, remodel, repair or otherwise alter an existing owner-occupied residence may not perfect a claim of lien against the owner's property under ORS .035 if the subcontractor or the person provided or contracted to provide services, labor, materials or equipment to a contractor that was unlicensed at the earlier of the following times:

- (a) The time the subcontractor or the person first contracted with the contractor for the project; or
  - (b) The time the person first delivered labor, materials or equipment to the project site.
- (2) Subsection (1) of this section does not apply if the services, labor, materials or equipment is purchased with cash or consumer credit.
- (3) The Construction Contractors Board may notify a person at the person's request of the status of a contractor's license using any means the board uses to notify a contractor of the contractor's license status. The board may charge the person a fee in an amount the board specifies by rule for the cost of providing the notice to the person.

**87.037. Prohibition against claim of lien.** An original contractor may not claim a lien arising from the improvement of real property if a written contract for the work is required by ORS 701.305 and the contractor does not have a written contract.

**87.039. Notice of filing claim of lien; effect of failure to give notice.** (1) A person filing a claim of lien pursuant to ORS .035 shall mail to the owner and to the mortgagee a notice in writing that the claim has been filed. A copy of the claim of lien shall be attached to the notice. The notice shall be mailed not later than 20 days after the date of filing. Notice mailed to the owner who received the notice of right to a lien as provided by ORS .021 shall be deemed in compliance with the requirement of this subsection, unless the person giving notice has actual knowledge of changed ownership. Notice mailed by any person to the mortgagee who received the notice required under ORS .025 shall be deemed in compliance with this subsection unless the person giving the notice has actual knowledge of a change of mortgagee.

(2) No costs, disbursements or attorney fees otherwise allowable as provided by ORS .060 shall be allowed to any party failing to comply with subsection (1) of this section.

**87.045. Completion date of improvement; notice of completion, abandonment or nonabandonment; contents of notice.** (1) The completion of construction of an improvement shall occur when:

- (a) The improvement is substantially complete;
  - (b) A completion notice is posted and recorded as provided by subsections (2) and (3) of this section; or
  - (c) The improvement is abandoned as provided by subsection (5) of this section.
- (2) When all original contractors employed on the construction of an improvement have substantially performed their contracts, any original contractor, the owner or mortgagee, or an agent of any of them may post and record a completion notice. The completion notice shall state in substance the following:

---

Notice hereby is given that the building, structure or other improvement on the following described premises, (insert the legal description of the property including the street address, if known) has been completed.

All persons claiming a lien upon the same under the Construction Lien Law hereby are notified to file a claim of lien as required by ORS .035.

Dated \_\_\_\_\_, 2\_\_

\_\_\_\_\_  
Original Contractor, Owner or Mortgagee

P. O. Address: \_\_\_\_\_

---

(3) Any notice provided for in this section shall be posted on the date it bears in some conspicuous place upon the land or upon the improvement situated thereon. Within five days from the date of posting the notice, the party posting it or the agent of the party shall record with the recording officer of the county in which the property, or some part thereof, is situated, a copy of the notice, together with an affidavit indorsed thereon or attached thereto, made by the person posting the notice, stating the date, place and manner of posting the notice. The recording officer shall indorse upon the notice the date of the filing thereof and record and index the notice in the statutory lien record as required by ORS .050.

(4) Anyone claiming a lien created under ORS .010 on the premises described in a completion or abandonment notice for labor or services performed and materials or equipment used prior to the date of the notice shall perfect the lien pursuant to ORS .035.

(5) Except as provided in subsection (6) of this section, an improvement is abandoned:

(a) On the 75th day after work on the construction of the improvement ceases; or

(b) When the owner or mortgagee of the improvement or an agent of either posts and records an abandonment notice in writing signed by either the owner or the mortgagee.

(6) When work on the construction of an improvement ceases, if the owner or mortgagee of the improvement intends to resume construction and does not want abandonment to occur, the owner or mortgagee or an agent of either shall post and record a nonabandonment notice in writing signed by either the owner or mortgagee. The notice of nonabandonment shall be posted and recorded not later than the 74th day after work on the construction ceases. The notice of nonabandonment may be renewed at intervals of 150 days by rerecording the notice.

(7) The notices of abandonment or nonabandonment described in subsections (5) and (6) of this section shall state in substance:

(a) That the improvement is either abandoned or not abandoned.

(b) The legal description of the property, including the street address if known, on which the improvement is located.

(c) In the case of an abandonment notice, that all persons claiming a lien on the improvement should file a claim of lien pursuant to ORS .035.

(d) In the case of a nonabandonment notice, the reasons for the delay in construction.

(e) The date of the notice.

(f) The address of the person who signs the notice.

**87.050. Recording.** The recording officer of each county shall record all notices and claims of lien required to be filed by the provisions of ORS .001 to .060 and .075 to .093 in the statutory lien record. The notices and claims recorded in the statutory lien record shall be indexed as deeds and other conveyances are required by law to be indexed and shall constitute a public record of the county.

**87.055. Duration of lien; when suit to enforce lien commences.** No lien created under ORS .010 shall bind any improvement for a longer period than 120 days after the claim of lien is filed unless suit is brought in a proper court within that time to enforce the lien, or if extended payment is provided and the terms thereof are stated in the claim of lien, then 120 days after the expiration of such extended payment, but no lien shall be continued in force for a longer time than two years from the time the claim of lien is filed under ORS .035 by any agreement to extend payment. For purposes of this section:

(1) Subject to subsection (2) of this section, a suit to enforce the lien shall be deemed commenced as provided in ORS 12.020.

(2) With regard to other parties who are construction lien claimants under ORS .035, a suit to enforce the lien shall be deemed to commence when the complaint is filed, whether or not summons or service with regard to such parties is completed within the time required by ORS 12.020.

**87.057. Notice of intent to foreclose; list of materials furnished and statement of prices; effect of failure to give notice.** (1) A person intending to foreclose a lien shall deliver to the owner of the property upon which the lien is claimed and to the mortgagee a notice in writing not later than 10 days prior to commencement of the suit stating that such person, or others, intends to commence suit to foreclose the lien. Notice delivered to the mortgagee who received the notice required by ORS .025 shall be deemed in compliance with this subsection, unless the person giving notice has actual knowledge of a change of mortgagee.

(2) Where a notice of intent to foreclose a lien has been given as provided by subsection (1) of this section, the sender of the notice upon demand of the owner shall furnish to the owner within five days after the demand a list of the materials and supplies with the charge therefor, or a statement of a contractual basis for the owner's obligation, for which a claim will be made in the suit to foreclose.

(3) A plaintiff or cross-complainant seeking to foreclose a lien in a suit to foreclose shall plead and prove compliance with subsections (1) and (2) of this section. No costs, disbursements or attorney fees otherwise allowable as provided by ORS .060 shall be allowed to any party failing to comply with the provisions of this section.

**87.059. [Repealed].**

**87.060. Foreclosure; right to jury trial; distribution of proceeds of foreclosure sale.** (1) A suit to enforce a lien perfected under ORS .035 shall be brought in circuit court, and the pleadings, process, practice and other proceedings shall be the same as in other cases.

(2) In a suit to enforce a lien perfected under ORS .035, evidence of the actual costs of the labor, equipment, services and material provided by the lien claimant establishes a rebuttable presumption that those costs are the reasonable value of that labor, equipment, services and material.

(3) In a suit to enforce a lien perfected under ORS .035, the court shall allow or disallow the lien. If the lien is allowed, the court shall proceed with the foreclosure of the lien and resolve all other pleaded issues. If the lien is disallowed, and a party has made a demand for a jury trial as provided for in subsection (4) of this section, the court shall impanel a jury to decide any issues triable of right by a jury. All other issues in the suit shall be tried by the court.

(4) A party may demand a trial by jury of any issue triable of right by a jury after the lien is disallowed, if that party serves a demand therefor in writing upon the other parties at any time prior to commencement of the trial to foreclose the lien. The demand shall be filed with the court. The failure of a party to serve a demand as required by this subsection shall constitute a waiver by the party of trial by jury. A demand for trial by jury made as provided in this subsection may not be withdrawn without the consent of the parties.

(5) When notice of intent to foreclose the lien has been given, pleaded and proven as provided for in ORS .057, the court, upon entering judgment for the lien claimant, shall allow as part of the costs all moneys paid for the filing or recording of the lien and all moneys paid for title reports required for preparing and foreclosing the lien. In a suit to enforce a lien perfected under ORS .035 the court shall allow a reasonable amount as attorney fees at trial and on appeal to the party who prevails on the issues of the validity and foreclosure of the lien.

(6) In case the proceeds of any sale under ORS .001 to .060 and .075 to .093 are insufficient to pay all lienholders claiming under such statutes, the liens of all persons shall be paid pro rata. Each claimant is entitled to execution for any balance due the claimant after the distribution of the proceeds, and that execution shall be issued by the clerk of the court, upon demand, after the return of the sheriff or other officer making the sale showing the balance due.

(7) All suits to enforce any lien perfected under ORS .035 shall have preference on the calendar of the court over every civil suit, except suits to which the state is a party, and shall be tried by the court without unnecessary delay. In such a suit, all persons personally liable, and all lienholders whose claims have been filed for record

pursuant to ORS .035, shall, and all other persons interested in the matter in controversy, or in the property sought to be charged with the lien, may be made parties; but persons not made parties are not bound by the proceedings. The proceedings upon the foreclosure of the liens perfected under ORS .035 shall, as nearly as possible, conform to the proceedings of a foreclosure of a mortgage lien upon real property.

**87.070. Amount of recovery by contractor; respective rights of contractor and owner.** Any contractor may recover, upon a lien perfected by the contractor, only the amount due to the contractor according to the terms of the contract, after deducting all claims of other parties for work done and materials furnished for which a lien is perfected under ORS .035. Where a claim of lien is filed pursuant to ORS .035 for work done or material or equipment furnished to any contractor, the contractor shall defend any action brought thereupon at the expense of the contractor, and during the pendency of such action the owner may withhold from the contractor the amount of money for which such claim of lien is filed. In case of judgment against the owner or the property of the owner upon the lien, the owner may deduct from any amount due or to become due by the owner to the contractor the amount of such judgment and costs; and if the amount of the judgment and costs exceeds the amount due by the owner to the contractor, or if the owner has settled with the contractors in full, the owner may recover back from the contractor any amount so paid in excess of the contract price, and for which the contractor was originally the party liable.

**87.075. Exemption of building materials from attachment by third persons.** When a person furnishes or procures materials for use in the construction of an improvement, those materials are not subject to attachment, execution or other legal process to enforce any debt due by the purchaser of the materials, except a debt due for the purchase money thereof, so long as in good faith the materials are about to be applied to the construction of the improvement.

**87.076. Bond or deposit of money; amount; demand for release of lien; effect.** (1) The owner of an improvement or land against which a lien perfected under ORS .035 is claimed, or an interested person, may file with the recording officer of the county in whose office the claim of lien is filed a bond executed by a corporation authorized to issue surety bonds in the State of Oregon to the effect that the principal or principals on the bond shall pay the amount of the claim and all costs and attorney fees that are awarded against the improvement or land on account of the lien. The bond shall be in an amount not less than 150 percent of the amount claimed under the lien, or in the amount of \$1,000, whichever is greater.

(2)(a) In lieu of the surety bond provided for in subsection (1) of this section, the owner of an improvement or land against which a lien perfected under ORS .035 is claimed, or an interested person, may deposit with the treasurer of the county in which the claim of lien is filed a sum of money or the equivalent of money equal in value to 150 percent of the amount claimed under the lien, or in the amount of \$1,000, whichever is greater.

(b) A person who makes a deposit under paragraph (a) of this subsection is entitled to any investment income. The treasurer shall pay the investment income to the person who makes the deposit at the time the treasurer, in accordance with ORS .083, distributes the money deposited under this subsection. The person who makes the deposit bears the risk for a loss that results from an investment of the money deposited.

(3) A person may file a bond or deposit money under subsection (1) or (2) of this section at any time after the claim of lien is filed under ORS .035.

(4)(a) A person entitled to post a bond under subsection (1) of this section or a cash deposit under subsection (2) of this section may deliver pursuant to ORS .018 a written demand to the lien claimant that a lien perfected under ORS .035 be released and a notice that if the lien is not released the person may recover the actual costs the person incurred in complying with this section and ORS .078 and .081 or the sum of \$500, whichever is greater. If the lien is not released within 10 days after the demand and notice is delivered and the lien claimant or an assignor of the lien claimant does not bring a suit to foreclose the lien within the time provided in ORS .055, and if the person who made the demand has complied with this section and ORS .078 and .081, then the lien claimant or assignor of the lien claimant who fails to release or foreclose the lien is liable to the person for the actual costs the person incurred in complying with this section and ORS .078 and .081 or the sum of \$500, whichever is greater, in addition to any other remedy provided by law or equity.

(b) In an action to recover damages under this subsection in which the plaintiff prevails, the court, at trial and on appeal, shall allow and fix a reasonable amount for attorney fees for prosecution of the action, if the court finds that a written demand for payment of the claim was made on the defendant not less than 20 days before commencement of the action. However, the court may not allow attorney fees to the plaintiff, but shall allow attorney fees to the defendant, if the court finds that the defendant tendered to the plaintiff prior to commencement of the action an amount not less than the damages awarded to the plaintiff.

(c) If a lien claimant or an assignor of the lien claimant is served with a demand under paragraph (a) of this subsection and is a prevailing party in the suit to foreclose the lien, then in addition to other costs and attorney fees to which the lien claimant or the assignor of the lien claimant is entitled, the court shall allow the actual costs incurred in addressing the demand or the sum of \$500, whichever is greater.

**87.078. Notice of filing bond or depositing money; contents of notice; effect of failure to give notice.** (1) A person who files a bond or deposits money under ORS .076 shall cause to be served upon the lien claimant a notice of the filing or deposit and, if a bond, a copy thereof, not later than 20 days after the filing or deposit. The notice shall state the location and time of the filing or deposit.

(2) If a person does not notify the lien claimant as required by subsection (1) of this section, the filing of the bond or the deposit of money is of no effect and the provisions of ORS .083 shall not apply in a suit to foreclose the lien for which the filing or deposit is made.

**87.081. Filing affidavit with county officer.** (1) When a person files a bond with the recording officer of the county under ORS .076 and serves notice of the filing upon the lien claimant, the person shall file with the same recording officer an affidavit stating that such notice was served.

(2) When a person deposits money with the treasurer of a county under ORS .076 and serves notice of the deposit upon the lien claimant, the person shall file with the recording officer of the same county an affidavit stating that the deposit was made and notice was served.

**87.083. Foreclosure after filing of bond or deposit of money; effect of filing or deposit; disposition of bond or money.** (1) A suit to foreclose a lien pursuant to ORS .060 that is commenced or pending after a bond is filed or money deposited under ORS .076 shall proceed as if no filing or deposit was made except that the lien shall attach to the bond or money upon the filing or deposit and the service of notice thereof upon the lien claimant. The property described in the claim of lien is thereafter entirely free of the lien and is not involved in subsequent proceedings.

(2) The county or an officer or employee of the county may not be named or otherwise made a party to a suit described in subsection (1) of this section.

(3) When a bond is filed or money is deposited, if, in a suit to enforce the lien for which the filing or deposit is made, the court allows the lien, the lien must be satisfied out of the bond or money. The court shall include as part of the court's judgment an order that specifies the amount the treasurer must release to the judgment creditor and the amount of the remaining balance that the treasurer must release to the person who deposited the money.

(4) When a bond is filed or money is deposited, if, in a suit to enforce the lien for which the filing or deposit is made, the court disallows the lien, the court shall include as part of the court's judgment an order to return the bond or money to the person who filed the bond or deposited the money.

(5) Notwithstanding an order from the court under subsection (3) or (4) of this section or an order or notice under ORS .088, if the county treasurer is not certain about how to distribute money deposited under ORS .076, the treasurer shall notify the lien claimant and the person who deposited the money of how the treasurer intends to distribute the money. If within 10 days after the date of the treasurer's notice a party to the suit to foreclose the lien objects to the notice, the treasurer may:

(a) Hold the money until the court or a stipulation of the parties provides further direction; or

(b) Commence an interpleader proceeding under ORCP 31.

**87.086. Determination of adequacy of bond.** If a lien claimant considers the bond filed with a recording officer of a county inadequate to protect the claim of the lien claimant for some reason other than the amount of the

bond, the lien claimant shall, within 10 days of receipt of the notice of filing, petition the court in which the suit to foreclose the lien may be brought for a determination of the adequacy of the bond. The lien claimant shall state in detail the reasons for the inadequacy. Not later than two days after the filing of the petition with the court, the lien claimant shall send a notice of the filing and a copy of the petition by registered or certified mail to the person who filed the bond. After a hearing, if the court determines that the bond is inadequate for one or more of the reasons stated by the lien claimant, the court shall order such action as shall make the bond adequate to protect the claim of lien.

**87.088. Release of lien or return of money.** The county recording officer shall record a written release of the lien or the county treasurer in whose office money is deposited under ORS .076 shall return the money to the person who made the deposit if:

(1) The person who filed the bond or deposited the money under ORS .076 notifies the lien claimant and the treasurer in writing and by certified mail that a suit to foreclose the lien was not commenced within the time specified by ORS .055. The notice shall provide that the lien claimant has 15 calendar days in which to object to the release of the lien and the return of the money and to provide documentation that demonstrates that a suit was timely commenced or that the time for commencement has not expired. If the treasurer receives an objection, the treasurer may decide how to distribute the money or may commence an interpleader proceeding under ORCP 31.

(2) The person who filed the bond or deposited the money presents a certified copy of a court's order for the release of the bond or all or some of the money to the person.

(3) The person who filed the bond or deposited the money presents a written release of lien signed by the lien claimant.

**87.089. Limitations on actions.** The provisions of ORS .076, .083 and .088 do not create a cause of action and may not be asserted as a basis for a per se negligence action.

**87.093. Information Notice to Owner; rules; contents; when notice must be delivered; effect of failure to deliver notice; penalty.** (1) The Construction Contractors Board shall adopt by rule a form entitled "Information Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent manner using words in their common and everyday meanings, the pertinent provisions of the Construction Lien Law of this state and the rights and responsibilities of an owner of property and an original contractor under that law. The "Information Notice to Owner" shall include signature lines for the contractor and the property owner. The rights and responsibilities described in the form shall include, but not be limited to:

(a) Methods by which an owner may avoid multiple payments for the same materials and labor;

(b) The right to file a complaint against a licensed contractor with the board and, if appropriate, to be reimbursed from the contractor's bond filed under ORS chapter 701; and

(c) The right to receive, upon written request therefor, a statement of the reasonable value of materials, equipment, services or labor provided from the persons providing the materials, equipment, services or labor at the request of an original contractor and who have also provided notices of right to a lien.

(2) Each original contractor shall deliver a copy of the "Information Notice to Owner" adopted by the board under this section to:

(a) The first purchaser of residential property constructed by the contractor and sold before or within the 75-day period immediately following the completion of construction; and

(b) The owner or an agent of the owner, other than an original contractor, at the time of signing a residential construction or improvement contract with the owner.

(3) The contractor shall deliver the "Information Notice to Owner" personally, by registered or certified mail or by first class mail with certificate of mailing.

(4) This section applies only to a residential construction or improvement contract for which the aggregate contract price exceeds \$2,000. If the price of a residential construction or improvement contract was initially less than \$2,000, but during the course of the performance of the contract exceeds that amount, the original contractor shall mail or otherwise deliver the "Information Notice to Owner" not later than five days after the contractor knows or should reasonably know that the contract price will exceed \$2,000.

- (5) Notwithstanding subsections (2) and (4) of this section, the original contractor need not send the owner an “Information Notice to Owner” if the owner is a contractor licensed with the board under ORS chapter 701.
- (6) Notwithstanding ORS .010 and .030, if an original contractor does not deliver an owner or agent with an “Information Notice to Owner” as required under subsections (2) to (4) of this section, the original contractor may not claim any lien created under ORS .010 upon any improvement, lot or parcel of land of the owner for labor, services or materials supplied under the residential construction or improvement contract for which the original contractor failed to deliver the required “Information Notice to Owner”.
- (7) If an original contractor does not deliver an “Information Notice to Owner” to an owner or agent as required under subsection (2) of this section, the board may suspend the license of the original contractor for any period of time that the board considers appropriate or impose a civil penalty of not more than \$5,000 upon the original contractor as provided in ORS 701.992.
- (8) As used in this section:
- (a) **“Residential construction or improvement”** means the original construction of residential property and the repair, replacement, remodeling, alteration or improvement of residential property.
  - (b) **“Residential construction or improvement contract”** means a written agreement between an original contractor and an owner for the performance of a residential construction or improvement and all labor, services and materials furnished and performed under the agreement.
  - (c) **“Residential property”** includes, but is not limited to, a residential dwelling and the driveways, swimming pools, terraces, patios, fences, porches, garages, basements, other structures and land that are adjacent or appurtenant to a residential dwelling.

## LIENS GENERALLY

**87.142. Definitions for ORS .142 to .490 and .910.** As used in ORS .142 to .490 and .910, unless the context otherwise requires:

- (1) **“Animal”** means any mammal, bird, fish, reptile, amphibian or insect.
- (2) **“Chattel”** includes movable objects that are capable of being owned, but does not include personal rights not reduced to possession but recoverable by an action at law or suit in equity, money, evidence of debt and negotiable instruments.
- (3) **“Electric cooperative”** means a cooperative corporation organized under ORS chapter 62 the principal business of which is the construction, maintenance and operation of an electric transmission and distribution system for the benefit of the members of that cooperative corporation and which has no other principal business or purpose.
- (4) **“Electric utility”** means a corporation engaged in distributing electricity, directly or indirectly, to or for the public and regulated by the Public Utility Commission under ORS chapter 757.
- (5) **“Excavation”** means a shaft, tunnel, incline, adit, drift or other excavation designed for the use, working or draining of a mine.
- (6) **“Fair market value”** means, with respect to a chattel sold at a foreclosure sale under this chapter, the price of chattels of the same kind and condition prevailing in the county of sale at the time of sale.
- (7) **“Fungible chattels”** means chattels of which any unit is the equivalent of any other unit.
- (8) **“Improvement”** means a road, tramway, trail, flume, ditch, pipeline, building, structure, superstructure or boardinghouse used for or in connection with the working or development of a mine.
- (9) **“Irrigation”** includes the use of canals, ditches, pipes, pumps, spraying apparatus and other mechanical devices to water land artificially.
- (10) **“Mine”** means a mine, lode, mining claim or deposit that contains or may contain coal, metal or mineral of any kind.
- (11) **“Mortgagee”** means a person who has a valid subsisting mortgage of record or trust deed of record securing a loan upon any real property to be charged with a lien under ORS .352 to .362.
- (12) **“Nursery stock”** means fruit trees, fruit-tree stock, nut trees, grapevines, fruit bushes, rose bushes, rose stock, forest and ornamental trees, and shrubs both deciduous and evergreen, florists’ stock and cuttings, scions

and seedlings of fruit or ornamental trees and shrubs, and all other fruit-bearing plants and parts thereof and plant products for propagation or planting.

(13) **“Owner”** includes:

(a) A person who has title to a chattel or real property;

(b) A person who is in possession of a chattel or real property under an agreement for the purchase thereof, whether the title thereto is in the person or the vendor of the person; or

(c) A person who is in lawful possession of a chattel or real property.

(14) **“Person”** includes individuals, corporations, associations, firms, partnerships and joint stock companies.

(15) **“Security interest”** means an interest in a chattel reserved or created by an agreement that secures payment or performance of an obligation as more particularly defined by ORS 71.2010 (2)(ii).

(16) **“Timbers”** means sawlogs, spars, piles, felled logs and other wood growth that has been cut or separated from land.

(17) **“Wood products”** includes lumber, slabwood, plywood and other wood products produced from timbers. The term does not include paper or products made from paper.

**87.146. Priorities of liens.** (1) Except as provided in subsection (2) of this section:

(a) Liens created by ORS .152 to .162 have priority over all other liens, security interests and encumbrances on the chattel subject to the lien, except that taxes and duly perfected security interests existing before chattels sought to be subjected to a lien created by ORS .162 are brought upon the leased premises have priority over that lien.

(b) Liens created by ORS .216 to .232 have equal priority. When a judgment is given foreclosing two or more liens created by ORS .216 to .232 upon the same chattel, the debts secured by those liens shall be satisfied pro rata out of the proceeds of the sale of the property.

(c) With regard to the same chattel, a lien created by ORS .216 to .232 has priority over a nonpossessory chattel lien created by any other law.

(d) With regard to the same chattel, a lien created by ORS .216 is junior and subordinate to a duly perfected security interest in existence when the notice of claim of such lien is filed under ORS .242.

(e) With regard to the same chattel, a lien created by ORS .222 to .232 has priority over a security interest created under ORS chapter 79.

(2)(a) A personal property tax lien, a chattel lien claimed by the State of Oregon, its agencies or any political subdivision thereof, and a chattel lien claimed by a state officer or employee during the course of official duty pursuant to law have priority over a lien created by ORS .152 to .162 and .216 to .232.

(b) A duly perfected security interest of a lessor in any portion of crops or animals to pay or secure payment of rental of the premises upon which those crops or animals are grown, not to exceed 50 percent of those crops or animals, shall not be subject to the lien created by ORS .226.

## MISCELLANEOUS PROVISIONS

**87.910. Cost of preparing lien notice.** A person who files a notice or claim of lien under this chapter may add to the amount of the claim, as contained in the notice, the amount of fees actually paid for the recording or filing of the lien notice, and such amount thereupon shall become part of the lien against the property described in the notice.

**87.920. Recording of document not to create lien, affect title or constitute notice except as authorized by law.** Except where filing of the document is specifically required or authorized by statute, no document filed for recording or otherwise with any public officer in this state before or after October 15, 1983, shall create a lien or encumbrance upon or affect the title to the real or personal property of any person or constitute actual or constructive notice to any person of the information contained therein.

**87.930. Secretary of State to furnish list of persons who have filed financing statement.** If the Secretary of State receives notice of a lien created under ORS .226, .705 or .755, the Secretary of State, upon request, shall furnish the person who filed the lien with a list of persons who have filed a financing statement under ORS



79.0501 that perfects a security interest in the inventory, proceeds or accounts receivable of the lien debtor or purchaser. The list must include:

- (1) The name and address of the secured party for each statement or notice;
- (2) The filing number and date of filing for the financing statement in the index maintained by the Secretary of State; and
- (3) Other information that the Secretary of State considers necessary or proper.

## VOLUME 17. OCCUPATIONS.

### CHAPTER 701. CONSTRUCTION CONTRACTORS AND CONTRACTS.

#### CONSTRUCTION CONTRACTORS AND CONTRACTOR OCCUPATIONS AND PROFESSIONS

##### **701.131 License required to perfect lien or obtain judicial or administrative remedy; exception.**

(1) Except as provided in subsection (2) of this section, a contractor may not perfect a construction lien, file a complaint with the Construction Contractors Board or commence an arbitration or a claim in a court of this state for compensation for the performance of any work or for the breach of any contract for work that is subject to this chapter, unless the contractor had a valid license issued by the board and properly endorsed for the work performed:

- (a) At the time the contractor bid or entered into the contract for performance of the work; and
- (b) Continuously while performing the work for which compensation is sought.

(2) The board, arbitrator or court may not apply the provisions of subsection (1) of this section to a contractor if the board, arbitrator or court determines that:

(a) The contractor either did not have a valid license with a proper endorsement at any time required under subsection (1) of this section, or had an initial issuance of a valid license, and:

(A) The contractor was not aware of the requirement that the contractor be licensed or properly endorsed for the work performed, and the contractor submitted a completed application for a license within a number of days established by the board, but not more than 90 days, of the date the contractor became aware of the requirement;

(B) At the time the contractor perfected a construction lien or commenced any claim subject to the provisions of subsection (1) of this section, the contractor was licensed by the board and properly endorsed for the work performed; and

(C) Enforcement of the provisions of subsection (1) of this section would result in substantial injustice to the contractor;

(b) The contractor was licensed by the board for some but not all of the times required under subsection (1) of this section and had a lapse in the license and:

(A) The contractor was not aware of the lapse in the license for more than a number of days established by the board, but not to exceed 90 days, before submitting a completed application for license renewal with the board;

(B) Except for perfection of a construction lien and a court action to foreclose the lien, at the time the contractor commenced any claim subject to the provisions of subsection (1) of this section the contractor's license was renewed under ORS 701.063 to include the entire time period for which a license was required under subsection (1) of this section; and

(C) For perfection of a construction lien and a court action to foreclose the lien, the contractor's license was renewed under ORS 701.063 for the entire time period for which a license was required under subsection (1) of this section, but not later than 90 days following perfection of the lien; or

(c) The proceeding:

(A) Is directed against a person or entity that:

- (i) Is subject to this chapter or ORS chapter 671 or 672;
- (ii) Provides construction or design labor or services of any kind; or

(iii) Manufactures, distributes, rents or otherwise provides materials, supplies, equipment, systems or products; and

(B) Arises out of defects, deficiencies or inadequate performance in the construction, design, labor, services, materials, supplies, equipment, systems or products provided.

(3) A contractor that falsely swears to information submitted to the board under ORS 701.046 or submitted in a registration of securities described in ORS 701.046 (2), or that knowingly violates the provisions of ORS 656.029, 670.600 or 701.046, may not perfect a construction lien, file a complaint with the board or commence an arbitration or a claim in a court of this state for compensation for the performance of any work on a residential structure or for the breach of any contract for work on a residential structure that is subject to this chapter.

**701.305 Requirement for written contract with residential property owner; standard contractual terms; rules.**

(1) A contractor may not perform work to construct, improve or repair a residential structure or zero-lot-line dwelling for a property owner without a written contract if the aggregate contract price exceeds \$2,000. If the price of a contract was initially less than \$2,000, but during the course of performance the contract exceeds that amount, the contractor shall mail or otherwise deliver a written contract to the property owner not later than five days after the contractor knows or should reasonably know that the contract price will exceed \$2,000. Failure to have a written contract will not void the contract.

(2) The Construction Contractors Board shall adopt rules that require a contractor to use standard contractual terms in a construction contract for which subsection (1) of this section requires a written contract. The standard contractual terms shall be clear and use words of common understanding.

Copyright © State of Oregon, 2020. All rights reserved.