Chapter 87

2007 EDITION

Statutory Liens

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CONSTRUCTION LIENS

87.001 Short title. ORS 87.001 to 87.060 and 87.075 to 87.093 shall be known and may be cited as the Construction Lien Law. [1975 c.466 §1]

87.005 Definitions for ORS 87.001 to 87.060 and 87.075 to 87.093. As used in ORS 87.001 to 87.060 and 87.075 to 87.093:

(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" includes creation or making of an improvement, and alteration, partial construction and repairs done in and upon an improvement.

(3) "Construction agent" includes a contractor, architect, builder or other person having charge of construction or preparation.

(4) "Contractor" means a person who contracts on predetermined terms to be responsible for the performance of all or part of a job of preparation or construction in accordance with established specifications or plans, retaining control of means, method and manner of accomplishing the desired result, and who provides:

(a) Labor at the site; or

(b) Materials, supplies and labor at the site.

(5) "Improvement" includes any building, wharf, bridge, ditch, flume, reservoir, well, tunnel, fence, street, sidewalk, machinery, aqueduct and all other structures and superstructures, whenever it can be made applicable thereto.

(6) "Mortgagee" means a person who has a valid subsisting mortgage of record or trust deed of record securing a loan upon land or an improvement.

(7) "Original contractor" means a contractor who has a contractual relationship with the owner.

(8) "Owner" means:

(a) A person who 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 who has entered into a contract for the purchase of an interest in the land or improvement thereon sought to be charged with a lien created under ORS 87.010; or

(c) A person to whom a valid subsisting lease on land or an improvement is made, and who possesses an interest in the land or improvement by reason of that lease.

(9) "Preparation" includes excavating, surveying, landscaping, demolition and detachment of existing structures, leveling, filling in, and other preparation of land for construction.

(10) "Site" means the land on which construction or preparation is performed.

(11) "Subcontractor" means a contractor who has no direct contractual relationship with the owner. [Amended by 1957 c.651 §1; 1973 c.671 §1; 1975 c.466 §2; 1977 c.596 §1; 2005 c.22 §52]

87.007 Protection of purchasers of residential property from construction liens that may be perfected after sale of property completed; requirements for sale of residential property; 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 for original construction or contract price for improvements to the residence completed within three months prior to the date of the sale of the property is $50,000 or more.

(b) A new condominium unit or a condominium unit where the sales price for original construction or contract price for improvements to the condominium unit completed within three months prior to the date of the sale of the property is $50,000 or more. 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 for original construction or contract price for improvements to the residential building completed within three months prior to the date of the sale of the property is $50,000 or more. As used in this paragraph, "residential building" means a building or structure containing not more than four dwelling units capable of being used as residences or homes.

(2) For purposes of protecting purchasers of residential property with respect to claims of lien that arise before the date the sale of the residential property is completed but may be perfected under ORS 87.035 after the date the sale of the property is completed, when an owner of record sells residential property to a purchaser, the owner shall provide such protection by one of the following methods:

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

(A) Without exception for filed and unfiled claims of construction lien existing at the date of closing 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 shall be maintained in or released from escrow pursuant to written instructions to the escrow agent from the owner that sold the property and the purchaser. The written instructions shall provide that any claims of lien that are perfected after the date of the sale of the property and that are not paid by the owner that sold the property shall be paid upon demand by the purchaser 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 provides documentation from a title company that:

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

(B) One or more claims of lien have been perfected against the property, that 135 days have passed since the date that each such claim of lien was filed and that all such 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 claiming a lien or liens in an aggregate amount that exceeds $5,000 with respect to the property under ORS 87.010, 87.021 or 87.035, 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 all claims of liens under ORS 87.035 with respect to the property.

(f) Obtain a signed written waiver from the purchaser of the residential property. The waiver shall be in a form described in ORS 87.091 and shall specify that the provisions of paragraphs (a) to (e) of this subsection do not apply to the sale of the residential property. The waiver must be printed on a form that is separate from any residential property sales contract or agreement and may be signed by the purchaser at any time after the purchaser enters into the sales contract or agreement with respect to the residential property and before closing of the transaction.

(3) Not later than the date the sale of the residential property is completed, the owner who sold the property shall complete, sign and deliver to the purchaser a form specifying the method that the owner has selected to comply with the requirements of subsection (2) of this section or that subsection (2) of this section does not apply to the sale of the property. The notice shall be in a form designated by the Construction Contractors Board 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 may not be liable in any criminal, civil or administrative proceeding arising 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 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 there is no enforcement or attempted enforcement of any claim of lien against the property that is the subject of the sale arising before the date the sale of the property is completed; and

(b) As to any 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 is not considered to have occurred with respect to a lien described in ORS 87.010 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 furnishing any materi-

als, equipment, services or labor at the request of the purchaser of the residential property. [2003 c.778 §2]

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. [Amended by 1957 c.651 §2; 1973 c.671 §2; 1975 c.466 §3; 1977 c.596 §2; 1981 c.757 §1]

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 87.010 (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 87.010 (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 87.001 to 87.060 and 87.075 to 87.093, 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. [Amended by 1975 c.466 §4]

87.018 Delivery of notices. Except as provided in ORS 87.093, all notices required under ORS 87.001 to 87.060 and 87.075 to 87.093 shall be in writing and delivered in person or delivered by registered or certified mail. [1975 c.466 §5; 1981 c.757 §2; 2007 c.648 §15]

87.020 [Amended by 1965 c.446 §1; 1967 c.600 §1; 1967 c.602 §1; repealed by 1975 c.466 §6 (87.021 enacted in lieu of 87.020)]

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 87.010 (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 87.010 (1) to (3), (5) and (6) for which a lien may be perfected under ORS 87.035 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 187.010, before the notice is delivered or mailed. However, no lien is created under ORS 87.010 (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 87.023.

(3)(a) Except as provided in paragraph (b) of this subsection, a lien created under ORS 87.010 (1) to (3), (5) or (6) may be perfected under ORS 87.035 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 87.010. 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 87.010 and perfected under ORS 87.035, 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 87.018 to the original contractor not later than 10 days after its receipt by the owner. [1975 c.466 §7 (enacted in lieu of 87.020); 1981 c.757 §3; 1983 c.674 §1; 1983 c.757 §1; 1987 c.662 §1; 2001 c.311 §1; 2002 s.s.1 c.6 §§1,4; 2003 c.778 §10]

87.023 Notice of right to lien; form of notice. The notice of right to a lien required under ORS 87.021 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 187.010, 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.

[1981 c.757 §5; 1983 c.757 §2; 1987 c.662 §2]

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 87.010 (2) or (6) and perfected under ORS 87.035 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 87.010 (1), (4) or (5) and perfected under ORS 87.035 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 187.010, 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 87.021 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 87.023.

(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 187.010, 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 87.010 and perfected under ORS 87.035 for the alteration and repair of an improve-

ment 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 87.035 relates to the date of commencement of the improvement as defined in ORS 87.005. Except as provided in subsection (3) of this section, the date of creation of the lien under ORS 87.010 and the date of perfection of the lien under ORS 87.035 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 87.060 (6). [Amended by 1965 c.446 §2; 1967 c.602 §2; 1975 c.466 §8; 1981 c.757 §6; 1983 c.513 §1; 1983 c.674 §3; 1985 c.513 §1; 1987 c.662 §3]

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 87.021 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 187.010, 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. [1981 c.757 §8; 1985 c.513 §2; 1987 c.662 §4]

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 87.001 to 87.060 and 87.075 to 87.093, 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 87.037. [Amended by 1975 c.466 §9; 1987 c.662 §5; 2007 c.648 §9]

87.035 Perfecting lien; filing claim of lien; contents of claim. (1) Every person claiming a lien created under ORS 87.010 (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 87.010 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 87.010 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. [Amended by 1961 c.609 §1; 1973 c.671 §3; 1975 c.466 §10; 1983 c.517 §1; 1985 c.596 §1; 1987 c.662 §6]

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. [2007 c.648 §5]

Note: 87.037 was added to and made a part of 87.001 to 87.060 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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 87.035 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 87.021 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 87.025 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 87.060 shall be allowed to any party failing to comply with subsection (1) of this section. [1975 c.466 §14; 1983 c.674 §4; 1985 c.513 §3; 1987 c.662 §7]

87.040 [Repealed by 1975 c.466 §25]

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 87.035.

Dated _____, 2__

_____

Original Contractor, Owner or Mortgagee

P. O. Address: _____

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(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 87.050.

(4) Anyone claiming a lien created under ORS 87.010 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 87.035.

(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 87.035.

(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. [Amended by 1975 c.466 §11; 1985 c.596 §2; 1987 c.662 §8; 2001 c.577 §6; 2005 c.22 §53]

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 87.001 to 87.060 and 87.075 to 87.093 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. [Amended by 1975 c.466 §12; 1987 c.662 §9; 2001 c.577 §2]

87.055 Duration of lien; when suit to enforce lien commences. No lien created under ORS 87.010 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 87.035 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 87.035, 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. [Amended by 1975 c.466 §13; 1985 c.341 §1; 1985 c.513 §4; 1987 c.662 §10]

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 87.025 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 87.060 shall be allowed to any party failing to comply with the provisions of this section. [1975 c.466 §15; 1987 c.662 §11]

87.058 Stay of foreclosure proceedings; requirements; procedure; duration of stay. (1) As used in this section:

(a) Notwithstanding ORS 87.005, "contractor" has the meaning given that term in ORS 701.005.

(b) "Board" means the Construction Contractors Board established in ORS 701.205.

(2) If a person files a suit to enforce a lien perfected under ORS 87.035 and the owner of the structure subject to that lien files a complaint that is being processed by the board under ORS 701.145 against a contractor who performed work on the structure, the owner may obtain a stay of proceedings on the suit to enforce the lien if:

(a) The owner already has paid the contractor for that contractor's work that is subject to this chapter on the structure;

(b) The person suing to enforce the lien perfected under ORS 87.035:

(A) Performed work that is subject to ORS chapter 701 on the structure for the contractor who has been paid by the owner;

(B) Furnished labor, services or materials or rented or supplied equipment used on the structure to the contractor who has been paid by the owner; or

(C) Otherwise acquired the lien as a result of a contribution toward completion of the structure for which the contractor has been paid by the owner; and

(c) The continued existence of the lien on which the suit is pending is attributable to the failure of the contractor who has been paid by the owner to pay the person suing for that person's contribution toward completion of the structure.

(3) The owner may petition for the stay of proceedings described in subsection (2) of this section by filing the following papers in the circuit court in which the suit on the lien is pending:

(a) A certified copy of the complaint filed for processing by the board under ORS 701.145; and

(b) An affidavit signed by the owner that contains:

(A) A description of the structure;

(B) The street address of the structure;

(C) A statement that the structure is the structure upon which the suit to enforce the lien is pending; and

(D) A statement that the petitioner is the owner of the structure.

(4) Upon receipt of a complete petition described in subsection (3) of this section, the circuit court shall stay proceedings on the suit to enforce the lien.

(5) After the board order on the complaint becomes final and the board issues any required notice for payment against the contractor's bond or deposit, the circuit court shall dissolve the stay ordered under subsection (4) of this section. [1981 c.618 §16; 1987 c.662 §12; 1991 c.181 §15; 2001 c.197 §8; 2007 c.793 §2]

87.060 Foreclosure; right to jury trial; distribution of proceeds of foreclosure sale. (1) A suit to enforce a lien perfected under ORS 87.035 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 87.035, 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 87.035, 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 87.057, 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 87.035 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 87.001 to 87.060 and 87.075 to 87.093 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 87.035 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 87.035, 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 87.035 shall, as nearly as possible, conform to the proceedings of a foreclosure of a mortgage lien upon real property. [Amended by 1975 c.466 §16; 1981 c.897 §20; 1981 c.898 §44; 1983 c.517 §2; 1987 c.662 §13]

87.065 [Amended by 1961 c.609 §2; repealed by 1975 c.466 §25]

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 87.035. Where a claim of lien is filed pursuant to ORS 87.035 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. [Amended by 1987 c.662 §14]

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. [Amended by 1975 c.466 §23]

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 87.035 is claimed, or any other 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 87.035 is claimed, or any other interested person, may deposit with the treasurer of the county in which the claim of lien is filed a sum of money or its equivalent equal in value to 150 percent of the amount claimed under the lien, or in the amount of $1,000, whichever is greater.

(b) The court in which any proceeding to foreclose the lien may be brought may, upon notice and upon motion by a person who makes a deposit under paragraph (a) of this subsection, order the money invested in such manner as the court may direct. A person who makes a deposit under paragraph (a) of this subsection shall be entitled to any income from the investments and the treasurer of the county shall pay the income when received to the depositor without order.

(3) A bond or money may be filed or deposited under subsection (1) or (2) of this section at any time after the filing of the claim of lien under ORS 87.035.

(4)(a) Any 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 87.018 a written demand that a lien perfected under ORS 87.035 be released and a notice that if it is not released the party making the demand may be entitled to recover the actual costs incurred by the party making the demand in complying with this section, ORS 87.078 and 87.081 or the sum of $500, whichever is greater. If the lien is not released within 10 days after delivery of the demand and notice 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 87.055, and if the person making the demand has complied with this section, ORS 87.078 and 87.081, then the person failing to release and foreclose the lien shall be liable to the person making the demand for the actual costs incurred by the person making the demand in complying with this section, ORS 87.078 and 87.081 or the sum of $500, whichever is greater, in addition to any other remedy provided by law or equity.

(b) In any action to recover damages under this subsection in which the plaintiff prevails, there shall be allowed to the plaintiff, at trial and on appeal, a reasonable amount for attorney fees to be fixed by the court 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, attorney fees shall not be allowed to the plaintiff, but shall be allowed 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 such 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. [1975 c.466 §17; 1983 c.513 §3; 1987 c.662 §15; 1999 c.845 §1]

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 87.076 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 87.083 shall not apply in a suit to

foreclose the lien for which the filing or deposit is made. [1975 c.466 §18]

87.080 [Amended by 1967 c.407 §3; repealed by 1975 c.648 §72]

87.081 Filing affidavit with county officer. (1) When a person files a bond with the recording officer of the county under ORS 87.076 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 87.076 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. [1975 c.466 §19; 2005 c.22 §54]

87.082 [1967 c.407 §§1,2; repealed by 1975 c.648 §72]

87.083 Foreclosure after filing of bond or deposit of money; effect of filing or deposit; disposition of bond or money. (1) Any suit to foreclose a lien pursuant to ORS 87.060 that is commenced or pending after the filing of a bond or deposit of money under ORS 87.076 shall proceed as if no filing or deposit had been 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 shall thereafter be entirely free of the lien and shall in no way be involved in subsequent proceedings.

(2) 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 shall be satisfied out of the bond or money. The court shall include as part of its judgment an order for the return to the person who deposited the money of any amount remaining after the lien is satisfied.

(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 disallows the lien, the court shall include as part of its judgment an order for the return of the bond or money to the person who filed the bond or deposited the money. [1975 c.466 §20; 1987 c.662 §16; 2005 c.22 §55]

87.085 [Repealed by 1975 c.648 §72]

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. [1975 c.466 §21; 1987 c.662 §17]

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 87.076 shall return the money to the person who made the deposit when:

(1) A suit to foreclose the lien is not commenced within the time specified by ORS 87.055;

(2) The person who recorded 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 that person; or

(3) The person who recorded the bond or deposited the money presents a written release of lien signed by the lien claimant. [1975 c.466 §22; 1999 c.654 §5]

87.090 [Repealed by 1975 c.648 §72]

87.091 Form for waiver of application of provisions of ORS 87.007. (1) A written waiver described in ORS 87.007 (2) and signed by the purchaser of residential real property shall include the information described in subsection (2) of this section. The waiver shall be printed as a separate document and in at least 12-point boldfaced type.

(2) The waiver described in subsection (1) of this section shall include, but not be limited to, the following information and shall be in substantially the following form:

WAIVER OF PROTECTIONS
FROM SUBCONTRACTORS' LIENS.
WARNING: READ THIS NOTICE.
PROTECT YOURSELF FROM
PAYING ANY CONTRACTOR
OR SUPPLIER TWICE
FOR THE SAME SERVICE.

This is to inform you that if you are purchasing residential real property within 75 days after completion of construction, the property you are purchasing may be subject to construction liens that are not yet recorded on the date of sale. The property is located at _____.

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

If a contractor fails to pay subcontractors, material suppliers, rental equipment suppliers, laborers or service providers or neglects to make other legally required payments, any person who is owed money can look to the property for payment, even if the contractor has been paid in full.

OREGON LAW PROVIDES
THE FOLLOWING PROTECTIONS:

Under Oregon Law, the seller of residential real property is required to take one of the following actions to protect you from construction liens that are not yet recorded on the date of sale:

- PURCHASE or PROVIDE title insurance to help cover any construction liens that are recorded after you complete the purchase of the residential real property.

- RETAIN money in escrow until the status of all construction liens is resolved after the purchase of the residential real property is complete.

- MAINTAIN a bond or letter of credit until the status of all construction liens is resolved after the purchase of the residential real property is complete.

- GET waivers from every person claiming a right to a lien against the property in an aggregate amount of $5,000 or more.

- WAIT to close the purchase of the residential real property until 75 days after the completion of construction.

WAIVER OF RIGHTS

Under Oregon law, you may waive the requirements that apply to the seller of the residential real property. By signing this document, you agree to waive these protections and accept the risk that the property you are purchasing may be subject to a lien that is recorded after the date of sale. By waiving your rights, you may become liable for payment of the lien even if the contractor has been paid in full. Before signing this waiver, you may wish to consult an attorney.

_____

I have read this statement and understand the risks it describes. I hereby choose to assume those risks and waive the protections provided under ORS 87.007 by signing this form.

_____
(Signature of purchaser)
_____, 2_____

_____

[2003 c.778 §9]

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)(a) 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 written residential construction or improvement contract with the owner.

(b) If the residential construction or improvement contract is an oral contract, the original contractor shall mail or otherwise deliver the "Information Notice to Owner" not later than five days after the contract is made.

(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 $1,000. If the price of a residential improvement contract was initially less than $1,000, 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 $1,000.

(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 87.010 and 87.030, 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 87.010 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 constructing, repairing, remodeling or altering residential property and includes, but is not limited to, the construction, repair, replacement or improvement of driveways, swimming pools, terraces, patios, fences, porches, garages, basements and other structures or land adjacent to a residential dwelling.

(b) "Residential construction or improvement contract" means an agreement, oral or written, between an original contractor and an owner for the performance of a home improvement and includes all labor, services and materials furnished and performed thereunder. [1981 c.757 §9; 1983 c.757 §3; 1985 c.596 §3; 1987 c.662 §18; 1991 c.67 §14; 1995 c.771 §7; 1999 c.402 §1; 2007 c.648 §16; 2007 c.793 §3]

87.095 [Repealed by 1975 c.648 §72]

87.100 [Amended by 1973 c.54 §1; repealed by 1975 c.648 §72]

87.105 [Repealed by 1975 c.648 §72]

87.110 [Repealed by 1975 c.648 §72]

87.115 [Repealed by 1975 c.648 §72]

87.120 [Repealed by 1975 c.648 §72]

87.122 [1955 c.438 §§1,2; repealed by 1975 c.648 §72]

87.125 [Amended by 1967 c.327 §1; 1973 c.307 §1; repealed by 1975 c.648 §72]

87.130 [Amended by 1961 c.519 §1; repealed by 1975 c.648 §72]

87.135 [Repealed by 1975 c.648 §72]

87.140 [Repealed by 1975 c.648 §72]

LIENS GENERALLY

87.142 Definitions for ORS 87.142 to 87.490 and 87.910. As used in ORS 87.142 to 87.490 and 87.910, 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 ownership, 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 ORS 9.370, 87.142 to 87.490, 87.910 and 90.120, 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 87.352 to 87.362.

(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 (37).

(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. [1975 c.648 §1; 1999 c.940 §1; 2001 c.301 §5]

87.145 [Repealed by 1975 c.648 §72]

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

(a) Liens created by ORS 87.152 to 87.162 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 87.162 are brought upon the leased premises have priority over that lien.

(b) Liens created by ORS 87.216 to 87.232 have equal priority. When a judgment is given foreclosing two or more liens created by ORS 87.216 to 87.232 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 87.216 to 87.232 has priority over a nonpossessory chattel lien created by any other law.

(d) With regard to the same chattel, a lien created by ORS 87.216 is junior and subordinate to a duly perfected security interest in existence when the notice of claim of such lien is filed under ORS 87.242.

(e) With regard to the same chattel, a lien created by ORS 87.222 to 87.232 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 87.152 to 87.162 and 87.216 to 87.232.

(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 87.226. [1975 c.648 §2; 2003 c.576 §335]

87.150 [Repealed by 1975 c.648 §72]

POSSESSORY CHATTEL LIENS

87.152 Possessory lien for labor or material expended on chattel. A person who makes, alters, repairs, transports, stores, pastures, cares for, provides services for, supplies materials for or performs labor on a chattel at the request of the owner or lawful possessor of the chattel has a lien on that chattel in the possession of the person for the reasonable or agreed charges for labor, materials or services of the person, and the person may retain possession of the chattel until those charges are paid. [1975 c.648 §3]

87.155 [Repealed by 1975 c.648 §72]

87.156 Innkeeper's lien. (1) Except as provided in subsection (2) of this section, the keeper of an inn, hotel or motel has a lien on the chattels brought into the inn, hotel or motel belonging to or under the control of a guest or boarder for the reasonable or agreed charges due the keeper from the guest or boarder for accommodation, board and lodging, services, money, labor and materials furnished at the request of the guest or boarder by the keeper. The keeper may

retain possession of the chattels until those charges are paid.

(2)(a) The keeper may not retain prescription or nonprescription medications, medical equipment or apparatus, food or food stamps or children's clothing or accessories after the guest or boarder requests return of the property.

(b) If the keeper retains property in violation of this subsection, the keeper waives any claim to unpaid charges against the guest or boarder.

(c) In any action brought by the guest or boarder to compel the return of the property or to recover damages based on its retention, the prevailing party may recover attorney fees. [1975 c.648 §4; 1989 c.590 §2]

87.159 Lien for care of animal. A person who, or governmental agency that, transports, pastures, feeds, cares for or provides treatment to an animal that has been impounded under ORS 167.345 has a lien on the animal in the possession of the person or governmental agency for the reasonable charges for transportation, pasturage, feed, care or treatment provided by the person or governmental agency, and the person or governmental agency may retain possession of the animal until those charges are paid. [1989 c.349 §2]

87.160 [Repealed by 1975 c.648 §72]

87.162 Landlord's lien. Except as provided in ORS 87.156 and 90.120, a landlord has a lien on all chattels, except wearing apparel as defined in ORS 18.345 (1), owned by a tenant or occupant legally responsible for rent, brought upon the leased premises, to secure the payment of rent and such advances as are made on behalf of the tenant. The landlord may retain the chattels until the amount of rent and advances is paid. [1975 c.648 §5; 1981 c.258 §1; 1997 c.374 §8]

87.165 [Repealed by 1975 c.648 §72]

87.166 Attachment of liens. (1) Except as provided in subsection (2) of this section, the liens created by ORS 87.152 to 87.162 attach to the chattels described in those sections when:

(a) The services or labor are performed or the materials or money are furnished by the lien claimant to the lien debtor; and

(b) The charges for the services or labor performed and materials or money furnished are due and the lien debtor either knows or should reasonably know that the charges are due.

(2) The lien created by ORS 87.162 attaches to the chattels described in that section on the 20th day after rents or advances occur or attaches when the occupant or tenant attempts to remove the chattels from the premises while there are unpaid rents or advances. A person claiming a lien under ORS 87.162 may take the chattels subject to that lien into the possession of the person when the lien attaches or at any time thereafter. [1975 c.648 §6]

87.170 [Repealed by 1975 c.648 §72]

87.172 Time period before foreclosure allowed. (1) Except as otherwise provided in this section, a person claiming a lien under ORS 87.152 to 87.162 must retain the chattel that is subject to the lien for at least 60 days after the lien attaches to the chattel before foreclosing the lien.

(2) A person claiming a lien under ORS 87.152 for cost of care, materials and services bestowed on an animal must retain the animal for at least 30 days after the lien attaches to the animal before foreclosing the lien. If the animal is a dog or cat, the period shall be at least 15 days.

(3) A person claiming a lien under ORS 87.152 for the cost of removing, towing or storage of a vehicle that is appraised by a person who holds a certificate issued under ORS 819.480 to have a value of:

(a) $1,000 or less but more than $500, must retain the vehicle at least 30 days after the lien attaches to the vehicle before foreclosing the lien.

(b) $500 or less, must retain the vehicle at least 15 days after the lien attaches to the vehicle before foreclosing the lien. [1975 c.648 §7; 1979 c.401 §1; 1981 c.861 §1; 1983 c.338 §881; 1993 c.326 §9; 1995 c.758 §18; 2005 c.738 §7]

87.175 [Repealed by 1975 c.648 §72]

87.176 Fees for storage of chattel; notice to lien debtor; effect of failure to comply. (1) When the lien claimed under ORS 87.152 to 87.162 is for other than the storage of a chattel, if the lien claimant incurs expenses in storing the chattel prior to foreclosure, the lien claimant may charge reasonable fees for the storage of the chattel for a period not exceeding six months from the date that the lien attaches to the chattel. A lien claimant seeking to recover storage fees for storage expenses incurred prior to foreclosure shall send a written notice, within 20 days from the date that the storage fees began to accrue, to the lien debtor and every other person that requires notification under ORS 87.196. The claimant shall transmit the notice by certified mail. A person notified under ORS 87.196 need not receive the notice within the 20-day period, but within a reasonable time. If the lien claimant fails to comply with the notice requirements of this subsection, the lien claimant is limited to recovering reasonable fees for the storage of the chattel prior to foreclosure for a period of time not exceeding 20 days from the date that the lien attached to the chattel.

(2) When the lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel, the lien claimant shall send a written notice stating that storage fees are accruing, within 20 days after the chattel has been placed in storage, to the lien debtor and every other person that requires notification under ORS 87.196. The claimant shall transmit the notice by certified mail. A person notified under ORS 87.196 need not receive the notice within the 20-day period, but within a reasonable time. If the claimant fails to comply with the notice requirements of this subsection, the amount of the claimant's lien shall be limited to a sum equal to the reasonable storage expenses incurred within the 20-day period. [1975 c.648 §8; 1993 c.385 §1]

87.177 Bond or deposit of money for lien for storage of chattel; amount; notice to lien claimant; filing affidavit with county officer. (1) When a lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel and the amount of the lien claimed is $750 or more, the lien debtor, or any other interested person, may file with the recording officer of the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor 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 chattel on account of the lien. The bond shall be in an amount not less than 200 percent of the amount claimed under the lien for the storage of the chattel.

(2)(a) In lieu of the surety bond provided for in subsection (1) of this section, when a lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel and the amount of the lien claimed is $750 or more, the lien debtor, or any other interested person, may deposit with the treasurer of the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor a sum of money or its equivalent equal in value to 200 percent of the amount claimed under the lien for the storage of the chattel.

(b) The court in which any proceeding to foreclose the lien for the storage of the chattel may be brought may, upon notice and upon motion by a person who makes a deposit under paragraph (a) of this subsection, order the money invested in such manner as the court may direct. A person who makes a deposit under paragraph (a) of this subsection shall be entitled to any income from the investments and the treasurer of the county shall pay the income when received to the depositor without order.

(3) A bond or money may be filed or deposited under subsection (1) or (2) of this section at any time after a lien for the storage of a chattel is claimed under ORS 87.152 to 87.162 and the amount of the lien claimed is $750 or more.

(4) A person who files a bond or deposits money under subsections (1) to (3) of this section shall cause to be served upon the lien claimant a notice of the filing or deposit. If the person files a bond, the notice shall include a copy of the bond. The notice shall be filed not later than 20 days after the filing or deposit and shall state the location and time of the filing or deposit.

(5) If a person does not notify the lien claimant as required by subsection (4) of this section, the filing of the bond or the deposit of money is of no effect and the provisions of subsections (1) to (3) of this section do not apply in a suit to foreclose the lien for which the filing or deposit is made.

(6) When a person files a bond with the recording officer of a county under subsections (1) to (3) of this section and serves notice of the filing upon the lien claimant under subsections (4) and (5) of this section, the person shall file with the same recording officer an affidavit stating that the notice was served.

(7) When a person deposits money with the treasurer of a county under subsections (1) to (3) of this section and serves notice of the deposit upon the lien claimant under subsections (4) and (5) of this section, the person shall file with the recording officer of the same county an affidavit stating that the deposit was made and notice was served. [2003 c.193 §§2,3,4]

Note: 87.177 to 87.181 were added to and made a part of 87.152 to 87.212 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

87.178 Foreclosure after filing of bond or deposit of money; effect of filing or deposit; disposition of bond or money. (1) When a lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel and the amount of the lien claimed is $750 or more, any suit to foreclose the lien that is commenced or pending after the filing of a bond or deposit of money under ORS 87.177 (1) to (3) shall proceed as if no filing or deposit had been made except that the lien shall attach to the bond or money upon the filing or deposit and the service of notice of the filing or deposit upon the lien claimant. The chattel described in the claim of lien shall thereafter be entirely free of the lien and shall in no way be involved in subsequent proceedings.

(2) When a bond is filed or money is deposited and, in a suit to enforce the lien for

which the filing or deposit is made, the court allows the lien, the lien shall be satisfied out of the bond or money. The court shall include as part of its judgment an order for the return to the person who deposited the money of any amount remaining after the lien for the storage of the chattel is satisfied.

(3) When a bond is filed or money is deposited and, 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 its judgment an order for the return of the bond or money to the person who filed the bond or deposited the money. [2003 c.193 §5]

Note: See note under 87.177.

87.179 Determination of adequacy of bond. (1) If a lien claimant considers the bond filed with a recording officer of a county under ORS 87.177 (1) to (3) inadequate to protect the claim of the lien claimant for some reason other than the amount of the bond, the lien claimant may petition the court in which the suit to foreclose the lien for the storage of the chattel may be brought for a determination of the adequacy of the bond. The petition must be filed within 10 days of receipt of the notice of the filing of the bond under ORS 87.177 (4) and (5). The petition must describe in detail the reasons for the inadequacy.

(2) 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 described by the lien claimant, the court shall order such action as shall make the bond adequate to protect the claim of lien. [2003 c.193 §6]

Note: See note under 87.177.

87.180 [Repealed by 1975 c.648 §72]

87.181 Release of lien or return of money. The county recording officer shall record a written release of the lien for the storage of the chattel or the county treasurer in whose office money is deposited under ORS 87.177 (1) to (3) shall return the money to the person who made the deposit when:

(1) 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 that person; or

(2) The person who filed the bond or deposited the money presents a written release of lien signed by the lien claimant. [2003 c.193 §7]

Note: See note under 87.177.

87.182 Effect of prior security interest on method of foreclosure. (1) When a lien created by ORS 87.162 is subordinate to a prior duly perfected security interest in a chattel as provided in ORS 87.146, the lien created by ORS 87.162 shall be foreclosed by suit as provided in ORS chapter 88.

(2) Except as provided in subsection (1) of this section, liens created by ORS 87.152 to 87.162 may be foreclosed by suit as provided in ORS chapter 88, or by sale of the chattel subject to the lien at public auction to the highest bidder for cash. [1975 c.648 §9]

87.185 [Repealed by 1975 c.648 §72]

87.186 Location of foreclosure sale. Foreclosure of liens created by ORS 87.152 to 87.162 by public sale shall occur in the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor. [1975 c.648 §11]

87.190 [Repealed by 1975 c.648 §72]

87.192 Notice of foreclosure sale to lien debtor; public notice. (1) Before a lien claimant forecloses a lien created by ORS 87.152 to 87.162 by sale, the lien claimant shall give notice of the foreclosure sale to the lien debtor by first class mail with certificate of mailing, registered mail or certified mail sent to the lien debtor at the lien debtor's last-known address. The lien claimant shall give notice of the foreclosure sale to the lien debtor:

(a) Except as otherwise provided in this subsection, at least 30 days before the foreclosure sale.

(b) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of $500 or less by a person who holds a certificate issued under ORS 819.480, at least 15 days before the foreclosure sale.

(c) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of $1,000 or less but more than $500 by a person who holds a certificate issued under ORS 819.480, at least 15 days before the foreclosure sale.

(d) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of more than $1,000 by a person who holds a certificate issued under ORS 819.480, at least 30 days before the foreclosure sale.

(2) The lien claimant shall give public notice of the foreclosure sale by posting notice of it in a public place at or near the front door of the county courthouse of the county in which the sale is to be held and, except as provided in paragraph (b) of this subsection, in a public place at the location where the lien claimant obtained possession

of the chattel to be sold from the lien debtor. The following apply to notice under this subsection:

(a) Notice under this subsection must be given no later than the time required for notice to a lien debtor under subsection (1) of this section.

(b) This subsection does not require posting of notice at the location where the chattel was obtained if the chattel is a vehicle required to obtain a certificate of title issued under ORS chapter 803.

(3) If the chattel to be sold at a foreclosure sale is something other than an abandoned vehicle and has a fair market value of $1,000 or more, or if the chattel to be sold is an abandoned vehicle and has a fair market value of $2,500 or more, the lien claimant, in addition to the notice required by subsection (2) of this section, shall have a notice of foreclosure sale printed once a week for two successive weeks in a daily or weekly newspaper, as defined in ORS 193.010, published in the county in which the sale is held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the sale is held.

(4) The notice of foreclosure sale required under this section shall contain a particular description of the property to be sold, the name of the owner or reputed owner thereof, the amount due on the lien, the time and the place of the sale and the name of the person foreclosing the lien. [1975 c.648 §10; 1981 c.861 §2; 1983 c.436 §1; 1983 c.338 §882; 1993 c.326 §10; 1995 c.758 §19; 2005 c.738 §8]

87.195 [Repealed by 1975 c.648 §72]

87.196 Notice of foreclosure sale to secured parties; effect of notice; effect of failure to give notice. (1) A lien claimant who forecloses a lien created by ORS 87.152 to 87.162 by sale shall give notice of the foreclosure sale by first class, registered or certified mail. The following apply:

(a) Notice shall be given to all persons with a security interest in the chattel to be sold who have filed a financing statement perfecting that security interest in the office of the Secretary of State or in the office of the appropriate county officer of the county in which the sale is held.

(b) Notwithstanding paragraph (a) of this subsection if the chattel to be sold at the foreclosure sale is a chattel, other than part of the motor vehicle inventory of a dealer issued a vehicle dealer certificate under ORS 822.020, for which a certificate of title is required by the laws of this state, notice need only be given to persons who the certificate of title indicates have a security interest or lien in the chattel.

(c) Notice under this subsection shall be given at least 30 days prior to the foreclosure sale. However, if the lien is claimed under ORS 87.152, the lien claimant shall give the notice required by this subsection:

(A) Not later than the 20th day after the date on which the storage charges begin;

(B) If no storage charges are imposed, not later than the 30th day after the date on which the services provided are completed;

(C) At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of $1,000 or less but more than $500 by a person who holds a certificate issued under ORS 819.480; and

(D) At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of $500 or less by a person who holds a certificate issued under ORS 819.480.

(2) A person notified under subsection (1) of this section may discharge the lien and preserve the person's security interest in the chattel by paying the lien claimant the amount of the lien claim and reasonable expenses actually incurred in foreclosing the lien claim. If the person does not so discharge the lien before the day of the foreclosure sale, the person's security interest in the chattel is extinguished on the day the foreclosure sale is completed.

(3) If the chattel to be sold at a foreclosure sale is a chattel for which a certificate of title is required by the laws of this state and if the lien claimant does not notify a person as required by this section, the chattel remains subject to that security interest or lien and the buyer of the chattel at a foreclosure sale held under ORS 87.142 to 87.490 or 87.700 to 87.736 takes the chattel subject to the security interest or lien.

(4) If a lien claimant does not notify a person, other than a person indicated on a certificate of title as a secured party or lienholder, who claims a security interest or lien on the chattel sold at a foreclosure sale as required by subsection (1) of this section, the lien claimant is liable to that person for a sum equal to the fair market value of the chattel sold at the foreclosure sale or the amount due that person under the security agreement or lien at the time of the foreclosure sale, whichever amount is less. The secured party or other lien claimant may recover that sum by an action at law. [1975 c.648 §14; 1981 c.861 §3; 1983 c.338 §883; 1993 c.326 §11; 1995 c.758 §20; 2005 c.86 §1; 2005 c.738 §9]

87.200 [Repealed by 1975 c.648 §72]

87.202 Statement of account of foreclosure sale. (1) A person who forecloses a lien created by ORS 87.152 to 87.162 by sale shall file a statement of account verified by the oath of the person with the recording officer of the county in which the sale took place when:

(a) The chattel sold at the foreclosure sale has a fair market value of $250 or more; or

(b) The chattel sold at the foreclosure sale is an animal bearing a brand or other mark recorded with the State Department of Agriculture under ORS chapter 604.

(2) The statement of account required under subsection (1) of this section must contain:

(a) The amount of the lien claim and the cost of foreclosing the lien;

(b) A copy of the published or posted notice of foreclosure sale;

(c) The amount received for the chattel sold at the sale; and

(d) The name of each person who received proceeds from the foreclosure sale as described in ORS 87.206 and the amount each person received.

(3) A person filing a statement of account under this section shall send a copy of the statement by registered or certified mail to the owner of the chattel sold at the foreclosure sale. The person filing the statement of account shall send the copy to the last-known address of the owner. If the chattel sold at a foreclosure sale is an animal bearing a brand or other mark recorded with the State Department of Agriculture under ORS chapter 604, a person filing a statement of account under this section shall send a copy of the statement to the State Department of Agriculture. [1975 c.648 §13; 2005 c.86 §2]

87.205 [Repealed by 1975 c.648 §72]

87.206 Disposition of proceeds of foreclosure sale. (1) The proceeds of a sale to foreclose a lien created by ORS 87.152 to 87.162 shall be applied in the following order:

(a) To the payment of the reasonable and necessary expenses of the sale;

(b) To satisfy the indebtedness secured by the lien under which the sale is made;

(c) Subject to subsection (2) of this section, to satisfy the indebtedness secured by any subordinate lien or security interest, in order of priority, in the chattel; and

(d) To the treasurer of the county in which the foreclosure sale is made. The payment to the treasurer must be accompanied by a copy of the statement of account described in ORS 87.202.

(2) Proceeds may be applied under subsection (1)(c) of this section if the person who forecloses a lien created by ORS 87.152 to 87.162 by sale receives a written request for proceeds from the holder of any subordinate lien or security interest before the day of the foreclosure sale. The person foreclosing the lien may require the holder of the subordinate lien or security interest to furnish reasonable proof of the existence of the security interest or lien. If the person foreclosing the lien does not receive proof of the existence of the subordinate security interest or lien, the person is not required to apply proceeds of the sale to satisfy the indebtedness secured by the subordinate security interest or lien.

(3) If a county treasurer receives proceeds under subsection (1) of this section, the county treasurer shall credit the proceeds to the general revenue fund of the county, subject to the right of the lien debtor or the representative of the lien debtor, to reclaim the proceeds at any time within three years of the date of deposit with the treasurer. If the proceeds are not demanded and claimed within the three-year period, the proceeds become the property of the county. [1975 c.648 §12; 2005 c.86 §3]

87.210 [Repealed by 1975 c.648 §72]

87.212 Liability for improper sale of fungible chattels. A person claiming a lien under ORS 87.152 to 87.162 for the storage of fungible chattels shall not sell more of those chattels than is necessary to pay charges due that person for the storage. If a person unnecessarily sells fungible chattels without the consent of the owner thereof, the person shall, for each offense, forfeit to the owner of the chattels a sum equal to the fair market value of the chattels unnecessarily sold and 50 percent of the fair market value in addition as a penalty. The owner shall recover such value and penalty by an action at law. [1975 c.648 §15]

87.214 Disposal of property left with launderer or dry cleaner. Notwithstanding any provision of ORS 87.172 to 87.212:

(1) If a garment or article left with a retail launderer or retail dry cleaner for laundering, dry cleaning or other service is not redeemed by the customer within 180 days, the launderer or dry cleaner may, without any liability or responsibility for the article or garment, dispose of the article or garment in any manner suitable to the launderer or dry cleaner.

(2) A retail launderer or retail dry cleaner subject to this section shall post a notice describing the provisions of this section in a conspicuous place on the premises of the launderer or dry cleaner. The notice shall contain a citation to this section and

shall be substantially the same as the following language:

As specified in ORS 87.214, any garment, article, clothing, wearing apparel, leather garment, fur coat or garment, curtain, drapery, rug, carpet or household furnishing delivered to a launderer or dry cleaner for dry cleaning, dyeing, pressing, laundering, altering or other service, that is not picked up within 180 days after the date it was delivered, may be disposed of in any manner suitable to the launderer or dry cleaner.

[1991 c.591 §1]

Note: 87.214 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 87 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

87.215 [Repealed by 1975 c.648 §72]

NONPOSSESSORY CHATTEL LIENS

87.216 Nonpossessory lien for labor or material expended on chattel. A person who makes, alters, repairs, transports, stores, provides services for or performs labor on a chattel at the request of the owner of the chattel has a lien on that chattel for the reasonable or agreed charges for the labor or services the person performs and for the materials the person furnishes in connection therewith. [1975 c.648 §16]

87.220 [Repealed by 1975 c.648 §72]

87.222 Logger's, woodworker's and timberland owner's lien. (1) A person who performs labor on or assists in obtaining, handling, manufacturing or transporting timbers or wood products has a lien upon those timbers and those wood products for the reasonable or agreed value for this labor or services, when the labor is performed or services provided at the request of the owner of the timbers or wood products or an agent of the owner.

(2) A person who permits another to go on the land of the person and obtain timbers, has a lien upon the timbers, cut for the reasonable or agreed charge for that permission and stumpage.

(3) Subject to the limitation in subsection (4) of this section, if a person cuts or hires another to cut timbers on the land of the person and delivers or hires another to deliver the timbers to a purchaser, the person has a lien upon the timbers for the lesser of:

(a) The reasonable or agreed value of the timbers; or

(b) $125,000.

(4) A person described in subsection (3) of this section may not have outstanding at any one time more than one lien arising under subsection (3) of this section. [1975 c.648 §17; 1985 c.444 §1; 1999 c.940 §2]

87.225 [Repealed by 1975 c.648 §72]

87.226 Agricultural services lien. (1) A person who performs labor, supplies materials or provides services on farmland, range, ranch, orchard or in that person's place of business to aid the growing or harvesting of crops or the raising of animals has a lien upon the crops or animals for the reasonable or agreed charges for labor, materials or services. The lien upon crops or animals created by this section also attaches to the proceeds of the crops or animals and to the unborn progeny of the animals that are in utero on the date a notice of claim of lien is filed.

(2) If the lien claimed under subsection (1) of this section is for stud or artificial insemination services, the lien attaches only to the female animal to which the male animal is let or which is artificially inseminated, and the offspring.

(3) The lien on crops and the proceeds thereof attaches on the date a person performs labor, delivers materials or provides services to aid the growing or harvesting of crops. The lien on animals and the proceeds thereof attaches on the date a person performs labor, delivers materials or provides services to aid the raising of animals, or in the case of unborn progeny, attaches on the date the claim of lien is filed.

(4) As used in this section:

(a) "Growing and harvesting" includes tilling, sowing, planting, cultivating, irrigating, pruning, thinning, fertilizing, spraying, dusting, cutting, harvesting, reaping, threshing, gathering, transporting, securing or otherwise performing or furnishing labor, service or materials to aid the production of any agricultural crop.

(b) "Materials" includes seed, fertilizer, pesticide, petroleum products and other products used in agricultural practice to aid the growing or harvesting of crops, and any mixtures or preparation for feeding animals, any of the constituent nutrients of an animal ration and any other food for animals.

(c) "Performs labor or provides services" includes personal labor and the use of machinery, equipment or animals rendered by the lien claimant or by the agent of the lien claimant, employee or subcontractor.

(d) "Raising animals" includes feeding, herding, pasturing, shoeing, artificially inseminating, providing male animals for the breeding of female animals, caring for and

managing animals kept or raised for use or profit. [1975 c.648 §18; 1985 c.469 §2; 2001 c.301 §6]

87.228 Effect on agricultural services lien when payment for produce is made prior to filing of lien claim. A lien created by ORS 87.226 ceases to attach to a crop that is agricultural produce as defined in ORS 87.700 and is in the possession of a purchaser, or to the proceeds of the sale of the crop to a third party, if the purchaser pays the agricultural producer in full for the crop and the claim for the lien is not filed under ORS 87.242 prior to the date of that payment. [Formerly 87.740]

Note: 87.228 was made a part of 87.700 to 87.736 by legislative action but was not added to or made a part of any other series in ORS chapter 87. See Preface to Oregon Revised Statutes for further explanation.

87.230 [Repealed by 1975 c.648 §72]

87.232 Fishing lien and fish worker's lien. (1) A person who performs labor in the operation of the chattel used for the purpose of catching fish from, holding them upon or transporting them within the waters of this state has a lien on the fish taken using the chattel during the period for which the lien is claimed for the reasonable or agreed charge for the labor of the person.

(2) A person who performs labor in the catching or transporting of fish in this state has a lien on the fish for the reasonable or agreed charges for the labor of the person. [1975 c.648 §19]

87.235 [Repealed by 1975 c.648 §72]

87.236 Attachment of liens; attachment to proceeds. (1) The liens created by ORS 87.216 to 87.232 attach to the chattels described in those sections.

(2) The liens created by ORS 87.222 and 87.232 shall also attach to the proceeds of the sale of the chattels subject to those liens if:

(a) Prior to the filing of the notice of claim of lien, the chattels or any part thereof are sold or delivered to an agent, broker, cooperative agency or other person to be sold or otherwise disposed of; and

(b) At the time the purchaser, agent, broker, cooperative agency or other person is notified of the filing of the claim of lien by delivery of a true copy thereof, the proceeds that were received or will be received from the sale or other disposal of the chattels have not been delivered to the owner of the chattels.

(3) When a lien created by ORS 87.222 to 87.232 attaches to the proceeds of the sale of chattels under subsection (2) of this section, a purchaser, agent, broker, cooperative agency or other person shall not deliver the proceeds or that portion of the proceeds equal to the amount of the lien claim to the owner until:

(a) The time specified by ORS 87.266 during which a suit to foreclose the lien must be commenced elapses;

(b) A court orders the delivery of the proceeds; or

(c) A certificate is recorded under ORS 87.346 declaring that the claim of lien is discharged. [1975 c.648 §20; 1981 c.674 §1; 1985 c.469 §3]

87.240 [Repealed by 1975 c.648 §72]

87.242 Filing notice of claim of lien; contents of notice; effect of failure to file notice. (1) A person claiming a lien created by ORS 87.216, 87.222 or 87.232 shall file a written notice of claim of lien with the recording officer of the county in which the lien debtor resides, or, if the lien debtor is a business, the county in which the lien debtor has its principal place of business, not later than 60 days after the close of the furnishing of the labor, services or materials. A person claiming a lien created by ORS 87.226 shall file a written notice of claim of lien with the Secretary of State not later than 75 days after the close of the furnishing of the labor, services or materials. The Secretary of State shall include a notice of claim of lien that is filed with the secretary under this subsection in the index maintained by the secretary for filing financing statements pursuant to ORS chapter 79.

(2) The notice of claim of lien required under subsection (1) of this section shall be a statement in writing verified by the oath of the lien claimant and must contain:

(a) A true statement of the lien claimant's demand after deducting all credits and offsets;

(b) The name of the owner of the chattel to be charged with the lien;

(c) A description of the labor, services or materials provided by the lien claimant for the benefit of the owner of the chattel to be charged with the lien;

(d) A description of the chattel to be charged with the lien sufficient for identification;

(e) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of notice of claim of lien;

(f) The date on which payment was due to the lien claimant for labor, services or materials;

(g) The terms of extended payment; and

(h) Such other information as the Secretary of State may require for the written notice of claim of lien created by ORS 87.226.

(3) If the person entitled to a lien under ORS 87.216 to 87.232 does not properly file a

notice of claim of lien within the time required by subsection (1) of this section, the person waives the right to the lien. [1975 c.648 §21; 1985 c.469 §4; 1987 c.297 §1; 2001 c.301 §7; 2007 c.71 §19]

87.245 [Repealed by 1975 c.648 §72]

87.246 Recording; fees. (1) Except for a notice of a claim for a lien created by ORS 87.226, the recording officer of a county shall record the notices filed under ORS 87.242 in a book kept for that purpose and called "index of liens upon chattels."

(2) Notices filed with the Secretary of State under ORS 87.242 shall:

(a) Be in a form prescribed by the Secretary of State; and

(b) Be maintained as public records for a period of time established by the Secretary of State.

(3) Fees for filing notices and requests for copies of such notices shall be established by the Secretary of State under ORS 177.130. Fees described in this subsection shall be nonrefundable. [1975 c.648 §22; 1987 c.297 §2; 1999 c.464 §3]

87.250 [Repealed by 1975 c.648 §72]

87.252 Notice to owner and holders of security interests; effect of failure to comply. (1) When a lien claimant files a notice of claim of lien as required by ORS 87.242, the lien claimant shall send forthwith a copy of the notice to the owner of the chattel to be charged with the lien by registered or certified mail sent to the owner at the owner's last-known address.

(2) When a lien claimant files a notice of claim of lien as required by ORS 87.242, the lien claimant shall send a copy of the notice to all holders of security interests in the chattel to be charged with the lien who duly perfected such security interests by filing notice thereof with the Secretary of State. The notice shall be mailed to holders of perfected security interests within 30 days after the date of filing.

(3) No costs, disbursements or attorney fees otherwise allowable as provided by ORS 87.336 shall be allowed to any party failing to comply with subsections (1) and (2) of this section.

(4) If the total amount of a lien under ORS 87.226 exceeds $20,000, that part of the lien exceeding $20,000 is subordinate to any security interest in the crops, animals or proceeds to be charged with the lien, if:

(a) The holder of the security interest does not receive notice because of the lien claimant's failure to comply with subsection (2) of this section; and

(b) The holder of the security interest duly perfects the interest before the date on which the lien claimant files a notice of claim of lien. [1975 c.648 §23; 1985 c.469 §5; 1993 c.352 §1; 2001 c.301 §8]

87.255 [Repealed by 1975 c.648 §72]

87.256 Limitation on extent of liens. Persons claiming liens created by ORS 87.216 to 87.232 are only entitled to liens for labor, services or materials performed or furnished during the six months immediately preceding the filing of the notice of claim under ORS 87.242. [1975 c.648 §24]

87.260 [Repealed by 1975 c.648 §72]

87.262 Foreclosure. Except as provided in ORS 87.322, a lien created by ORS 87.216 to 87.232 may be foreclosed by a suit in the circuit court under ORS chapter 88 and other laws regulating the proceedings for the foreclosure of liens generally or may be foreclosed as provided in ORS 87.272 to 87.306. If the lien has attached to proceeds under ORS 87.236, the lien must be foreclosed by suit. [1975 c.648 §25]

87.265 [Repealed by 1975 c.648 §72]

87.266 Duration of liens. (1) Except as provided in subsection (2) of this section, if either a suit to foreclose or a proceeding under ORS 87.272 to 87.306 to foreclose a lien created by ORS 87.216 to 87.232 is not commenced in an appropriate court within six months after the notice of claim of lien is filed under ORS 87.242, or if extended payment is provided and the terms thereof are stated in the notice of claim of lien, then within six months after the expiration of the extended payment, the lien shall cease to exist. A lien shall not be continued in force for a longer time than two years from the time the claim for lien is filed under ORS 87.242 by an agreement to extend payment.

(2) If either a suit to foreclose or a proceeding under ORS 87.272 to 87.306 to foreclose a lien created by ORS 87.226 is not commenced in an appropriate court within 18 months after the notice of claim of lien is filed under ORS 87.242 or, if extended payment is provided and the terms thereof are stated in the notice of claim of lien, within six months after the expiration of the extended payment, the lien shall cease to exist. A lien shall not be continued in force for a longer time than two years from the time the claim of lien is filed under ORS 87.242 by an agreement to extend payment. [1975 c.648 §26; 1985 c.469 §6]

87.270 [Repealed by 1975 c.648 §72]

87.272 Petition for foreclosure without suit. A person claiming a lien created by ORS 87.216 to 87.232 may obtain an order for the foreclosure of the lien by advertisement and sale by filing with the clerk of the court of the county in which the chattel is then located and from which that order is sought

a sworn petition requesting an order for foreclosure of the lien by advertisement and sale and showing, to the best knowledge, information and belief of the lien claimant:

(1) The name and residence or place of business of the lien debtor;

(2) The name and residence or place of business of the person in possession of the chattel subject to the lien;

(3) The description of the chattel subject to the lien in particularity sufficient to make possible its identification, and the lien claimant's estimate of the value and location of the chattel;

(4) A copy or verbatim recital of the notice of claim of lien filed by the lien claimant under ORS 87.242;

(5) That there is no reasonable probability that the lien debtor can establish a successful defense to the underlying claim of the lien; and

(6) That the person filing the petition under this section has fully complied with the notice and filing requirements of ORS 9.370, 87.142 to 87.490, 87.705, 87.710, 87.910 and 90.120. [1975 c.648 §27]

87.275 [Repealed by 1975 c.648 §72]

87.276 Evidence admissible; issuance of show cause order. (1) The court shall consider the petition filed under ORS 87.272 and may consider other evidence, including, but not limited to, an affidavit, deposition, exhibit or oral testimony.

(2) If from the petition or other evidence, if any, the court finds that a notice of claim of lien has been filed and that there is probable cause for sustaining the validity of the lien claim, the court shall issue a show cause order as provided in ORS 87.288. The finding under this subsection is subject to dissolution upon hearing. [1975 c.648 §28]

87.280 [Repealed by 1975 c.648 §72]

87.282 Waiver of right to hearing before filing of petition. The court shall order that the lien claimant's lien be foreclosed by advertisement and sale if the court finds:

(1) That the lien debtor, by conspicuous words in a writing executed by or on behalf of the lien debtor before filing of the petition under ORS 87.272 or by handwriting of the lien debtor or the lien debtor's agent executed before filing of the petition under ORS 87.272, has declared substantially that the lien debtor is aware of the right to notice and hearing on the question of the probable validity of the underlying lien claim before the lien debtor can be deprived of the property in the possession or control of the lien debtor or in the possession or control of another and that the lien debtor waives that right and agrees that the lien claimant, or one acting on behalf of the lien claimant, may take possession or control of the chattel subject to the lien without first giving notice and opportunity for hearing on the probable validity of the underlying lien claim;

(2) That there is no reason to believe that the waiver or agreement is invalid; and

(3) That the lien debtor has voluntarily, intelligently and knowingly waived that right. [1975 c.648 §29]

87.285 [Repealed by 1975 c.648 §72]

87.286 [Repealed by 1975 c.648 §72]

87.288 Show cause order; contents; service. (1) The court shall issue an order directed to the lien debtor and each person having possession or control of the chattel subject to the lien requiring the debtor and each other person to appear for hearing at a time and place fixed by the court to show cause why an order for the foreclosure of the lien claimant's lien by advertisement and sale should not issue.

(2) The show cause order issued under subsection (1) of this section shall be served in the same manner as a summons is served on the lien debtor and on each other person to whom the order is directed.

(3) The order shall:

(a) State that the lien debtor may file affidavits with the court and may present testimony at the hearing; and

(b) State that if the lien debtor fails to appear at the hearing the court may order foreclosure of the lien claimant's lien by advertisement and sale. [1975 c.648 §30]

87.290 [Repealed by 1969 c.330 §9]

87.292 [1969 c.330 §1; 1973 c.472 §1; repealed by 1975 c.648 §72]

87.294 [1969 c.330 §2; 1973 c.472 §2; 1973 c.647 §11; repealed by 1975 c.648 §72]

87.295 [Amended by 1969 c.330 §3; 1973 c.472 §3; repealed by 1975 c.648 §72]

87.296 Waiver of right to hearing after issuance of show cause order. If, after service of the order issued under ORS 87.288 (1), the lien debtor by a writing executed by or on behalf of the lien debtor after service of the order expressly declares that the lien debtor is aware that the lien debtor has the right to be heard, that the lien debtor does not want to be heard, that the lien debtor expressly waives the right to be heard, that the lien debtor understands that upon the signing by the lien debtor of the writing the court will order the foreclosure of the lien claimant's lien so that the possession or control of the claimed property will be taken from the lien debtor or another person, the court, without hearing, shall issue the order of foreclosure by advertisement and sale. [1975 c.648 §31]

87.300 [Amended by 1969 c.330 §4; 1973 c.472 §4; repealed by 1975 c.648 §72]

87.302 Authority of court on sustaining validity of lien claim. If the court on hearing on a show cause order issued under ORS 87.288 (1), finds that there is probable cause for sustaining the validity of the underlying claim of lien, the court may order foreclosure of the lien by advertisement and sale. [1975 c.648 §32]

87.305 [Repealed by 1975 c.648 §72]

87.306 Foreclosure by sale without suit; notice of sale to secured parties; public notice of sale by sheriff. (1) A lien claimant desiring to foreclose the lien by advertisement and sale shall deliver to the sheriff of the county in which the chattel is then located a certified copy of a court's order issued under ORS 87.282, 87.296 or 87.302 and a copy of the notice of claim of lien, certified by the recording officer of the county where it was filed.

(2) When the lien claimant delivers a certified copy of a court's order and a certified copy of the notice of claim of lien to a sheriff under subsection (1) of this section, the lien claimant, not later than the 30th day before the foreclosure sale, shall also send a copy of that order and notice by registered or certified mail to each person with a lien on the chattel to be sold recorded in the county of sale or with a security interest in the chattel to be sold who has filed a financing statement perfecting that security interest in the office of the Secretary of State or in the office of the appropriate county officer of the county in which the sale is held. If the chattel to be sold at the foreclosure sale is a chattel for which a certificate of title is required by the laws of this state, the lien claimant shall also so notify those persons whom the certificate of title indicates have a security interest or lien in the chattel.

(3) The sheriff shall promptly take the chattel described in the notice of claim of lien into the possession of the sheriff and shall hold it until the foreclosure sale.

(4) After taking possession of a chattel under subsection (3) of this section, a sheriff shall have a notice of foreclosure sale printed once a week for two successive weeks in a daily or weekly newspaper, as defined in ORS 193.010, published in the county in which the sale is held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the sale is held. The notice of foreclosure must contain a particular description of the chattel to be sold, the name of the owner or reputed owner of the chattel, the amount due on the lien, the time and place of the sale and the name of the person foreclosing the lien. After that advertisement but not sooner than the 30th day after the sheriff received a certified copy of the court's order and the certified copy of the notice of claim of lien under subsection (1) of this section, the sheriff shall sell the chattel, or such part thereof as may be necessary, at public auction to the highest bidder for cash. The sheriff shall deliver the chattel to the highest bidder and shall give the highest bidder a bill of sale containing an acknowledgment of payment for the chattel. [1975 c.648 §33]

87.310 [Amended by 1969 c.330 §5; repealed by 1975 c.648 §72]

87.312 Effect of notice of foreclosure sale to secured parties; failure to give notice. (1) A person who claims a lien or has a security interest in a chattel to be sold at a foreclosure sale and who is notified under ORS 87.306 (2) may discharge the foreclosing lien claimant's lien and preserve the security interest or lien claim of the person by paying the foreclosing lien claimant the amount of the lien claim and the expenses actually incurred in foreclosing it. If the person does not so discharge the lien before the day of the foreclosure sale, the security interest or lien claim of the person is extinguished.

(2) If the chattel to be sold at a foreclosure sale is a chattel for which a certificate of title is required by the laws of this state and if the lien claimant does not notify a person whom the certificate of title indicates has a security interest or lien in the chattel as required by ORS 87.306 (2), the chattel remains subject to that security interest or lien and the buyer of the chattel at a foreclosure sale held under ORS 9.370, 87.142 to 87.490, 87.705, 87.710, 87.910 and 90.120 takes the chattel subject to the security interest or lien.

(3) If a lien claimant does not notify a person, other than a person indicated on a certificate of title as a secured party or lienholder, who claims a security interest or lien on the chattel sold at a foreclosure sale as required by ORS 87.306 (2), the lien claimant is liable to that person for a sum equal to the fair market value of the chattel sold at the foreclosure sale or the amount due that person under the security agreement or lien at the time of the foreclosure sale, whichever amount is less. The secured party or other lien claimant shall recover that sum by an action at law. [1975 c.648 §34]

87.315 [Amended by 1969 c.330 §6; repealed by 1975 c.648 §72]

87.316 Disposition of proceeds of foreclosure sale. (1) The proceeds of a sale to foreclose a lien created by ORS 87.216 to 87.232 shall first be applied to the payment of the expenses incurred by the sheriff in

obtaining possession of the chattel and advertising and conducting the foreclosure sale, and secondly to the discharge of the lien.

(2) After the payment of expenses and the discharge of the lien, any amount remaining shall be paid by the sheriff to the treasurer of the county in which the foreclosure sale is held. The remainder shall be accompanied by a statement of the lien claim and the sheriff's costs in foreclosing the lien, a copy of the published or posted notice and a statement of the amount received for the chattel sold at the sale. The county treasurer shall credit the remainder to the general revenue fund of the county, subject to the right of the lien debtor, or the representative of the lien debtor, to reclaim the remainder at any time within three years of the date of deposit with the treasurer. If the remainder is not demanded and claimed within such period, it shall become the property of the county. [1975 c.648 §35]

87.320 [Amended by 1969 c.330 §7; repealed by 1975 c.648 §72]

87.322 Effect of prior security interest on foreclosure of nonpossessory lien for labor or material expended on chattel. ORS 87.272 to 87.316 do not apply to a lien on a chattel created by ORS 87.216 when that chattel is subject to a prior duly perfected security interest as provided in ORS 87.146 (1)(d). When a lien created by ORS 87.216 is junior and subordinate to a prior duly perfected security interest, that lien shall be foreclosed by suit under ORS chapter 88. In such a suit to foreclose, the holder of the prior security interest shall be made a party defendant to the foreclosure proceeding. The person holding the prior security interest may extinguish the lien created by ORS 87.216 by either a foreclosure proceeding under ORS chapter 88 or a nonjudicial foreclosure proceeding under ORS 79.0601 to 79.0628. [1975 c.648 §35a; 2001 c.445 §162]

87.325 [Amended by 1973 c.472 §5; repealed by 1975 c.648 §72]

87.326 Protection from theft and damage of chattel subject to lien. If the property covered by any lien created by ORS 87.216 to 87.232 is in danger of being stolen, damaged or removed from this state, the circuit court for the county in which the lien is filed upon application of the lien claimant, shall appoint the sheriff of such county receiver of the property covered by the lien, and the sheriff shall immediately take all such property into the custody of the sheriff and protect, care for and account for it and dispose of it according to the further order of the court. The sheriff shall be paid actual expenses of receivership from the proceeds of the sale of the property but shall be allowed no remuneration for services. [1975 c.648 §36]

87.330 [Repealed by 1975 c.648 §72]

87.332 Injury or removal of chattel subject to lien. Except for a person holding a prior duly perfected security interest in a chattel subject to a lien created by ORS 87.216, any person to whom a notice of claim of lien has been given as provided in ORS 87.242, 87.252 and 87.306 who dismantles, removes from this state, misdelivers or conceals a chattel or the proceeds of the sale of a chattel upon which there is a valid lien without the written consent of the lien claimant, shall be liable to the lien claimant for damages proximately resulting therefrom, which sum may be recovered in an action at law without instituting foreclosure proceedings. The court shall allow reasonable attorney fees at trial and on appeal to the prevailing party. [1975 c.648 §37; 1981 c.897 §21]

87.335 [Repealed by 1975 c.648 §72]

87.336 Costs and attorney fees in foreclosure by suit. In suits to foreclose the liens created by ORS 87.216 to 87.232, the court shall, upon entering judgment for the lien claimant, allow as part of the lien the moneys paid for the filing or recording of the lien as provided in ORS 87.910. The court shall also allow reasonable attorney fees at trial and on appeal to the prevailing party. [1975 c.648 §38; 1981 c.897 §22; 1981 c.898 §45]

87.340 [Repealed by 1975 c.648 §72]

87.342 Bond, letter of credit or deposit of money to discharge lien on chattel; amount; recording; notice to lien claimant. (1) The owner of a chattel subject to a lien created by ORS 87.216 to 87.232, or any other 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 owner of the chattel against which the lien is claimed shall pay the amount of the claim and all costs and attorney fees which are awarded against the chattel on account of the lien. The bond shall be in an amount not less than 150 percent of the amount claimed under the lien, and must be filed prior to the commencement of a foreclosure proceeding by the lien claimant.

(2)(a) In lieu of the surety bond provided for in subsection (1) of this section, a person may deposit with the treasurer of the county in which the claim for lien is filed an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, or a sum of money or its equivalent equal in value to 150 percent of the amount claimed under the lien.

(b) When a person deposits money or an irrevocable letter of credit with the treasurer of a county under this subsection, the person

shall file with the recording officer of the same county an affidavit stating that the deposit was made.

(3) When a bond is filed under subsection (1) of this section or an irrevocable letter of credit or money deposited and an affidavit filed under subsection (2) of this section, the recording officer shall issue to the owner or other person a certificate stating that the bond, irrevocable letter of credit or money is substituted for the chattel and that the lien on the chattel is discharged. A marginal entry of the discharge and bond, irrevocable letter of credit or money shall be made in the index of liens on chattels containing the original record of the claim of lien.

(4) When a bond is filed under subsection (1) of this section, or money or an irrevocable letter of credit is deposited under subsection (2) of this section, the owner or other person filing the bond or depositing the money or an irrevocable letter of credit shall promptly send a copy of the certificate received from the recording officer under subsection (3) of this section to the lien claimant by registered or certified mail sent to the lien claimant at the last-known address of the lien claimant.

(5) If the lien claimant establishes the validity of the lien claim by a suit to enforce it, the lien claimant is entitled to judgment against the sureties upon the bond, against the irrevocable letter of credit issuer or against the deposited money. [1975 c.648 §39; 1991 c.331 §17; 1997 c.631 §389; 2003 c.576 §336]

87.345 [Repealed by 1975 c.648 §72]

87.346 Filing certificate of lien satisfaction upon payment of claim; liability for failure to discharge lien; notice of discharge. (1) When a person claiming a lien under ORS 87.216 to 87.232 receives full payment of the claim including costs of making, filing and recording the lien and expenses incurred in commencing to foreclose it, the person shall file with the Secretary of State or the recording officer of the county in which the claim of lien is recorded a certificate declaring that full payment has been received from the lien debtor and that the claim of lien is discharged.

(2) Upon receiving the certificate, the Secretary of State or recording officer shall enter it in full length in the index of liens upon chattels.

(3) If any lien claimant, after full payment of the claim, within 10 days after being requested thereto, fails to discharge the claim of lien, the person is liable to the owner of the chattel formerly subject to the lien in the sum of $100 damages and for all actual damages caused by the failure of the lien claimant to discharge the claim of lien. The owner of the chattel shall recover those damages by an action at law.

(4) Upon the expiration of the 18-month time period allowed by ORS 87.266 (2) for filing either a suit to foreclose or a proceeding under ORS 87.272 to 87.306 to foreclose a lien created by ORS 87.226, the owner of chattels subject to a claim of lien that has ceased to exist pursuant to ORS 87.266 (2) may file with the Secretary of State a notarized certificate indicating:

(a) The date and location where the claim of lien was filed with the Secretary of State;

(b) That the lien has expired and is discharged because no suit to foreclose or proceeding under ORS 87.272 to 87.306 has been initiated with respect to such lien claim; and

(c) That the person filing such certificate has personally contacted the clerk of the circuit court in such county to determine that no suit to foreclose or proceeding under ORS 87.272 to 87.306 has been filed prior to the expiration of the time period set forth in ORS 87.266 (2).

(5) Within 10 days after filing a certificate under subsection (4) of this section, the person filing the certificate shall mail or deliver a true copy thereof to all persons having perfected security interests under ORS chapter 79 in the chattel which is the subject of the lien to which the certificate applies. [1975 c.648 §40; 1985 c.469 §7; 1987 c.297 §3; 1995 c.658 §67; 2001 c.301 §9]

87.350 [Repealed by 1975 c.648 §72]

LIENS ON REAL PROPERTY

87.352 Mining labor and material lien. (1) A person has a lien upon a mine or an improvement to secure payment for labor performed or materials furnished if that person:

(a) Performs labor upon or furnishes provisions or materials for the development, working or operation of a mine, improvement or excavation;

(b) Performs labor or furnishes materials in transporting materials or provisions for the use, working or development of a mine; or

(c) Performs labor in transporting materials or the mine's product from a mine or improvement.

(2) For purposes of this section, when two or more mines are owned or claimed by the same person and worked through a common excavation, or over one tram, or at one mill or other reduction works, then all the mines so worked, and all excavations and improvements used or owned in connection therewith shall be deemed one mine. [1975 c.648 §41]

87.355 [Repealed by 1975 c.648 §72]

87.356 Lien for preparing land for irrigation or cultivation. A person who is employed to or contracts to survey, clear, ditch, dike, tile, level, check, border, excavate, grade, pave or otherwise prepare land for irrigation or cultivation, or who furnishes materials or equipment for use in connection with such work on that land, at the request of the owner of the land, has a lien on the land prepared for the reasonable or agreed charges for labor, and the materials or equipment furnished. If the owner has less than a fee simple estate in the land, then only the interest of the owner therein is subject to the lien created by this section. [1975 c.648 §42; 1977 c.596 §3]

87.358 Nurseryman's lien. A person who furnishes nursery stock of the value or agreed price of $25 or more, for planting on land, at the request of the owner of that land, or with the knowledge or consent of the owner has a lien on the land upon which the nursery stock is set out and planted for the reasonable or agreed charges for the nursery stock. If the owner has less than a fee simple estate in the land, then only the interest of the owner therein is subject to the lien created by this section. [1975 c.648 §43]

87.360 [Repealed by 1975 c.648 §72]

87.362 Irrigation power lien. An electric cooperative or electric utility that supplies electricity to the owner of land for the purpose of providing power for the irrigation of the land has a lien upon that land, any part of which is irrigated using such electricity, for the cost of the electricity so supplied. If the owner has less than a fee simple estate in such land, then only the interest of the owner therein is subject to the lien created by this section. [1975 c.648 §44]

87.364 Attachment of liens. (1) The liens created by ORS 87.352 to 87.358 attach to the land, mine or improvement described in those sections on the day on which the lien claimant ceases to perform the labor or transport or furnish the materials or provisions for which the lien is claimed.

(2) The lien created by ORS 87.362, attaches to the land described in that section on the day of the first delivery of electricity for which the lien is claimed. [1975 c.648 §45]

87.365 [Repealed by 1975 c.648 §72]

87.366 Filing notice of claim of lien; contents of notice; effect of failure to file notice. (1) A person claiming a lien created by ORS 87.352 to 87.362 shall file a written notice of claim of lien not later than 120 days after the lien attaches with the recording officer of each county where there is situated any land sought to be charged with the lien.

(2) The notice of claim of lien required under subsection (1) of this section must be a statement in writing verified by the oath of the lien claimant, or, in the case of an electric cooperative or electric utility, by the oath of an authorized agent, and must contain:

(a) A true statement of the lien claimant's demand, after deducting all just credits and offsets, for the labor performed or the provisions, materials and equipment furnished or transported;

(b) The name of the owner or reputed owner, if known, of the land to be charged with the lien;

(c) The name of the person by whom the lien claimant was employed or to whom the lien claimant furnished the provisions, electricity, materials, equipment or nursery stock; and

(d) A description of the property to be charged with the lien sufficient for identification.

(3) If the person entitled to a lien under ORS 87.352 to 87.362 does not file a notice of claim of lien within the time required by subsection (1) of this section, the person waives the right of the person to the lien. [1975 c.648 §46]

87.370 [Repealed by 1975 c.648 §72]

87.372 Recording. The recording officer of the county shall record the notices filed under ORS 87.366 in a book kept for that purpose. The record shall be indexed in the same manner as the record of deeds and mortgages. [1975 c.648 §47]

87.375 [Repealed by 1975 c.648 §72]

87.376 Duration of liens. If a suit to foreclose a lien created by ORS 87.352 to 87.362 is not brought in an appropriate court within six months after the notice of claim of lien, within six months after the expiration of such extended payment, the lien shall cease to exist. A lien shall not be continued in force for a longer time than two years from the time the claim for lien is filed under ORS 87.366 by an agreement to extend payment. [1975 c.648 §48]

87.380 [Repealed by 1975 c.648 §72]

87.382 Foreclosure. The liens described in ORS 87.352 to 87.362 shall be foreclosed in the manner provided in ORS chapter 88. [1975 c.648 §49]

87.385 [Repealed by 1975 c.648 §72]

87.386 Costs and attorney fees in foreclosure. (1) In suits to foreclose a lien created by ORS 87.352 to 87.362, the court, upon entering judgment for the lien claimant, shall allow as part of the lien all moneys paid for the filing or recording of the lien as provided in ORS 87.910.

(2) In suits to foreclose a lien created by ORS 87.352 to 87.362, the court shall allow reasonable attorney fees at trial and on appeal to the prevailing party. [1975 c.648 §50; 1981 c.897 §23; 1981 c.898 §46]

87.390 [Repealed by 1975 c.648 §72]

87.392 Priorities of liens. (1) Except for any property tax liens, the lien created by ORS 87.352 is prior and superior to all other liens, mortgages and encumbrances against the land upon which the lien is imposed without regard to whether the other liens, mortgages, or encumbrances attached to the land before or after the lien created by ORS 87.352 attached.

(2) Except for tax liens, assessment liens, construction liens and liens created by ORS 87.352 and 87.356, the lien created by ORS 87.362 is prior and superior to all other liens, mortgages and encumbrances against the land upon which the lien is imposed without regard to whether the other liens, mortgages or encumbrances attached to the land before or after the lien created by ORS 87.362 attached.

(3) Except that the lien created by ORS 87.356 is prior to the lien created by ORS 87.362 without regard to the date on which the lien created by ORS 87.362 attached to the land, the liens created by ORS 87.356 and 87.358 are prior and superior to all other liens, mortgages and encumbrances of a subsequent date against the land upon which the liens are imposed. Property tax liens, whenever created, are prior and superior to the liens created by ORS 87.356 and 87.358.

(4) Notwithstanding subsection (2) of this section, a lien created by ORS 87.362 does not have priority over a mortgage on the land recorded at the date of the first delivery of electricity for which a lien may be claimed unless the electric cooperative or electric utility delivers a notice in writing of its possible lien claim to the mortgagee within 30 days of the date of first delivery of the electricity.

(5) The notice required by subsection (4) of this section shall state in substance:

(a) That the electric cooperative or electric utility is starting to deliver electricity;

(b) The name of the person ordering the electricity; and

(c) That a lien on the land may be claimed for the cost of the electricity. [1975 c.648 §51]

87.395 [Repealed by 1975 c.648 §72]

87.400 [Amended by 1959 c.340 §1; repealed by 1969 c.330 §9]

87.405 [Repealed by 1969 c.330 §9]

87.410 [Amended by 1959 c.340 §2; repealed by 1969 c.330 §9]

87.415 [Repealed by 1969 c.330 §9]

87.420 [Repealed by 1969 c.330 §9]

87.425 [Repealed by 1969 c.330 §9]

ATTORNEY'S LIEN

87.430 Attorney's possessory lien. An attorney has a lien for compensation whether specially agreed upon or implied, upon all papers, personal property and money of the client in the possession of the attorney for services rendered to the client. The attorney may retain the papers, personal property and money until the lien created by this section, and the claim based thereon, is satisfied, and the attorney may apply the money retained to the satisfaction of the lien and claim. [1975 c.648 §56 (enacted in lieu of 87.495)]

87.435 Bond, letter of credit or deposit of money to discharge attorney's possessory lien; recording; notice to attorney. (1) The owner of papers or personal property subject to a lien created by ORS 87.430, or any other interested person, may file with the recording officer of the county in which the attorney has the principal office of the attorney a bond executed by a corporation authorized to issue surety bonds in the State of Oregon to the effect that the owner of the papers and personal property against which the lien is claimed shall pay the amount of the claim and all costs which are awarded against the papers and personal property on account of the lien. The bond shall be in an amount not less than 150 percent of the amount claimed under the lien, and must be filed prior to the commencement of a foreclosure proceeding by the attorney.

(2)(a) In lieu of the surety bond provided for in subsection (1) of this section, a person may deposit with the treasurer of the county in which the attorney has the principal office of the attorney an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, or a sum of money or its equivalent equal in value to 150 percent of the amount claimed under the lien.

(b) When a person deposits money or an irrevocable letter of credit with the treasurer of a county under this subsection, the person shall file with the recording officer of the same county an affidavit stating that the deposit was made.

(3) When a bond is filed under subsection (1) of this section or money or an irrevocable letter of credit deposited and an affidavit filed under subsection (2) of this section, the recording officer shall issue to the owner or other person a certificate stating that the bond, irrevocable letter of credit or money is substituted for the chattel and that the lien on the chattel is discharged.

(4) When a bond is filed under subsection (1) of this section, or money or an irrev-

ocable letter of credit is deposited under subsection (2) of this section, the owner or other person filing the bond or depositing the money shall promptly send a copy of the certificate received from the recording officer under subsection (3) of this section to the attorney by registered or certified mail.

(5) If the attorney establishes the validity of the lien claim by a suit to enforce it under ORS chapter 88, the attorney is entitled to judgment against the sureties upon the bond, against the irrevocable letter of credit issuer or against the deposited money. [1975 c.648 §57 (enacted in lieu of 87.495); 1991 c.331 §18; 1997 c.631 §390; 2003 c.576 §337]

87.440 Determination of adequacy of bond or letter of credit. If an attorney considers the bond filed with a recording officer or the irrevocable letter of credit deposited with the treasurer of a county inadequate to protect the claim of the attorney for lien for some reason other than the amount of the bond or irrevocable letter of credit, the attorney 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 or irrevocable letter of credit. The attorney shall state in detail the reasons for the inadequacy. If the court determines that the bond is inadequate for one or more of the reasons stated by the attorney, the court shall order such action as shall make the bond or irrevocable letter of credit adequate to protect the claim for lien. [1975 c.648 §58 (enacted in lieu of 87.495); 1991 c.331 §19]

87.445 Attorney's lien upon actions and judgments. An attorney has a lien upon actions, suits and proceedings after the commencement thereof, and judgments, orders and awards entered therein in the client's favor and the proceeds thereof to the extent of fees and compensation specially agreed upon with the client, or if there is no agreement, for the reasonable value of the services of the attorney. [1975 c.648 §59 (enacted in lieu of 87.495); 2003 c.576 §338]

87.450 Filing notice of claim of lien on judgment for sum of money. (1) When an attorney claims a lien under ORS 87.445, if the judgment is for a sum of money only, the attorney must file a notice of claim of lien with the clerk of the court that entered the judgment within three years after the judgment is entered. The clerk shall enter the notice in the register of the court and in the judgment lien record maintained by the court administrator under ORS 18.075.

(2) When an attorney files a notice of claim of lien under subsection (1) of this section, the attorney shall send forthwith a copy of the notice to the client by registered or certified mail sent to the client at the last-known address of the client.

(3) A lien under ORS 87.445 on a judgment for a sum of money only remains a lien on the judgment until the judgment remedies for the judgment expire under ORS 18.180 to 18.192.

(4) For purposes of this section, a "judgment for a sum of money only" does not include a judgment or order for the payment of money for the support of any person under ORS 107.095, 107.105, 108.120, 109.155, 419B.400 or 419C.590. [1975 c.648 §60 (enacted in lieu of 87.495); 1993 c.33 §290; 1999 c.788 §43a; 2003 c.576 §188; 2007 c.339 §13]

87.455 Filing notice of claim of lien on judgment for possession of personal property; recording; foreclosure. (1) When an attorney claims a lien under ORS 87.445, if the judgment is for the possession, award or transfer of personal property, the attorney must file a notice of claim of lien not later than one year after entry of the judgment and disposition of any appeal of the judgment. The notice shall be filed with the recording officer of the county in which the judgment is rendered, with the recording officer of the county, if known, in which the personal property is located and with the recording officer of the county, if known, in which the attorney's client resides. The recording officer of a county shall record the notices filed under this section in a book called "index of liens upon chattels."

(2) Except as provided in subsection (3) of this section, a lien under ORS 87.445 on a judgment for the possession, award or transfer of personal property must be foreclosed in the manner provided in ORS chapter 88, not later than one year after the notice of claim of lien is filed under subsection (1) of this section.

(3) An attorney and the client of the attorney may, by an agreement in writing, extend the period of time within which a lien created by ORS 87.445 must be foreclosed to two years after the notice of claim of lien is filed. An agreement to extend a foreclosure period under this subsection shall contain the time and place of the filing of the notice of claim of lien by the attorney and shall be filed with the recording officer with whom the notice of claim of lien was filed. [1975 c.648 §61 (enacted in lieu of 87.495); 2003 c.576 §339]

87.460 Filing of notice of claim of lien on judgment for possession of real property; recording; foreclosure. (1) When an attorney claims a lien under ORS 87.445, if the judgment is for the possession, award or conveyance of real property, the attorney must file a notice of claim of lien not later than six months after entry of the judgment and disposition of any appeal of the judg-

ment. The notice shall be filed with the recording officer of the county in which the real property, or any part of it, is situated. The recording officer of a county shall record the notices filed under this section in a book that shall be indexed in the same manner as the record of deeds and mortgages.

(2) Except as provided in subsection (3) of this section, a lien under ORS 87.445 upon a judgment for the possession, award or conveyance of real property must be foreclosed in the manner provided in ORS chapter 88, not later than one year after the notice of claim of lien is filed under subsection (1) of this section.

(3) An attorney and the client of the attorney may, by agreement, in writing, extend the period of time within which a lien created by ORS 87.445 must be foreclosed to two years after the notice of claim of lien is filed. An agreement to extend a foreclosure period under this subsection shall contain the time and place of the filing of the notice of claim of lien by the attorney and shall be filed with the recording officer with whom the notice of claim of lien was filed. [1975 c.648 §62 (enacted in lieu of 87.495); 2003 c.576 §340]

87.465 Effect of failure to file notice of claim of lien; effect of failure to foreclose. If the notice of claim of lien is not filed within the time required by ORS 87.450, 87.455 or 87.460 or if the lien is not foreclosed within the time required by ORS 87.455 or 87.460, the lien created by ORS 87.445 shall cease to exist. [1975 c.648 §63 (enacted in lieu of 87.495)]

87.470 Contents of notice of claim of lien. The notice of claim of lien required under ORS 87.450 to 87.460 shall be a statement in writing verified by the oath of the attorney and must contain:

(1) A statement of the attorney's demand, including the amount of the fee or compensation of the attorney;

(2) The name of the case in which the judgment was entered, the date on which the judgment was entered in the register, and a description of the real or personal property which is to be awarded, transferred or conveyed to the client under the judgment;

(3) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice of claim of lien; and

(4) The date on which payment was due to the attorney for professional services to the client. [1975 c.648 §64 (enacted in lieu of 87.495); 2003 c.576 §189]

87.475 Effect of settlement on attorney's lien; satisfaction of judgment. (1) Except as provided in subsections (3) and (4) of this section, the lien created by ORS 87.445 is not affected by a settlement between the parties to the action, suit or proceeding before or after judgment, order or award.

(2) Except as provided in subsections (3) and (4) of this section, a party to the action, suit or proceeding, or any other person, does not have the right to satisfy the lien created by ORS 87.445 or any judgment, order or award entered in the action, suit or proceeding until the lien, and claim of the attorney for fees based thereon, is satisfied in full.

(3) A judgment debtor may pay the full amount of a judgment into court and the clerk of the court shall thereupon fully satisfy the judgment on the record and the judgment debtor shall be thereby released from any further claims thereunder.

(4) If more than one attorney appears of record for a litigant, the satisfaction of the lien created by ORS 87.445 by any one of the attorneys is conclusive evidence that the lien is fully satisfied. [1975 c.648 §65 (enacted in lieu of 87.495); 2003 c.576 §341]

87.480 Attorney's right and power over actions and judgments. Attorneys have the same right and power over actions, suits, proceedings, judgments, orders and awards to enforce their liens as their clients have for the amount due thereon to them. [1975 c.648 §66 (enacted in lieu of 87.495); 2003 c.576 §342]

87.485 Attorney fees. In suits to foreclose a lien created by ORS 87.445, the court shall allow a reasonable amount as attorney fees at trial and on appeal to the prevailing party. [1975 c.648 §67 (enacted in lieu of 87.495); 1981 c.897 §24]

87.490 Priority of attorney's lien upon actions and judgments. (1) Except for tax liens, prior encumbrances and prior liens of record on the real or personal property subject to the lien created by ORS 87.445, the lien created by ORS 87.445 is superior to all other liens, including a lien created by ORS 147.285.

(2) When the lien of an attorney created under ORS 87.445 attaches to a judgment allowing or enforcing a client's lien, the attorney's lien has the same priority as the client's lien with regard to personal or real property subject to the client's lien. [1975 c.648 §68 (enacted in lieu of 87.495); 2003 c.576 §343; 2005 c.383 §12]

87.495 [Repealed by 1975 c.648 §55 (87.430 to 87.490 enacted in lieu of 87.495)]

87.500 [Repealed by 1975 c.648 §72]

LIEN FOR LONG TERM CARE

87.501 Definitions for ORS 87.501 to 87.542. As used in ORS 87.501 to 87.542, unless the context requires otherwise:

(1) "Authorized representative" means a person appointed under ORS chapter 125 as a guardian or conservator of an individual and any other person holding funds or receiving benefits or income on behalf of an individual.

(2) "Care" means all the services rendered in a long term care facility, including but not limited to medical care, room and board, nursing care, administrative costs, supplies, equipment and ancillary services such as therapies.

(3) "Decedent" means an individual who has died leaving property that is subject to administration.

(4) "Decedent's estate" means the real and personal property of a decedent, as from time to time changed in form by sale, reinvestment or otherwise, and augmented by any accretions or additions thereto and substitutions therefor or diminished by any decreases and distributions therefrom. The term does not include assets placed in trust for the decedent by other persons.

(5) "Long term care facility" means facilities licensed as skilled nursing facilities or intermediate care facilities, as those terms are defined in ORS 442.015, and residential care facilities and adult foster homes licensed under ORS chapter 443. [1995 c.749 §1; 1997 c.249 §29; 1997 c.744 §1; 2001 c.104 §26]

Note: 87.501 to 87.542 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 87 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

87.503 Lien for long term care; statement concerning lien to be given to care recipient. (1) When an individual receives care at a long term care facility under a written contract that does not violate state or federal law, the individual receiving the care, and upon the death of such individual, the decedent's estate of that individual, is liable for the contracted costs of care. The individual receiving care and any authorized representative shall be given an itemized statement of goods and services provided as each payment becomes due. If the individual or an authorized representative of that individual refuses to pay the long term care facility for the costs of care within 30 days after the services are rendered and any portion thereof are billed to the individual or the authorized representative of the individual, the unpaid amount plus interest thereon at the legal rate of interest provided for in ORS 82.010 shall be a lien in favor of the long term care facility against the real property of the individual receiving care. The lien shall attach to the real property on the day, whichever is later, that is:

(a) The 30th day after the first services for which the lien is claimed are performed; or

(b) The 30th day after the first unpaid payment for care becomes due.

(2) At the time of signing a written contract for care at the facility, a long term care facility shall provide to the individual who will receive care under the contract or to the authorized representative of the individual a written statement describing the provisions of ORS 87.501 to 87.542. The written statement shall describe the procedures, process and rights and responsibilities of the individual receiving care and the long term care facility under ORS 87.501 to 87.542. Notwithstanding ORS 87.507 and 87.522, if a long term care facility does not provide such written statement as required by this subsection to an individual or an authorized representative, the lien created by this section for the contracted costs of care provided to the individual may not be perfected and may not be foreclosed.

(3) Notwithstanding subsection (1) of this section, real and personal property held in trust by a trustee for an individual receiving care are subject to the laws of this state applicable to trusts. [1995 c.749 §2; 1997 c.744 §2]

Note: See note under 87.501.

87.505 [Repealed by 1975 c.648 §72]

87.507 Perfecting lien; notice of lien; serving notice of lien; time to perfect lien. (1) In order to perfect a lien created by ORS 87.503, a long term care facility shall:

(a) File a notice of lien with the recording officer of the county or counties in which the real property is located; and

(b) Serve a certified copy of the notice of lien by registered or certified mail upon the individual or the authorized representative of the individual.

(2) A person claiming a lien under ORS 87.501 to 87.542 shall file the notice of lien no sooner than 60 days and no later than 120 days after the date on which the lien attached to the real property of the individual under ORS 87.503. [1995 c.749 §3; 1997 c.744 §3]

Note: See note under 87.501.

87.510 [Repealed by 1975 c.648 §72]

87.512 Contents of notice of lien. The notice of lien required under ORS 87.507 shall be a written statement verified by the oath of an officer of the long term care facility that asserts a claim for the lien and that contains:

(1) A true statement of demand, including an itemized statement of services provided

and setting forth the amount due and owing to the long term care facility as of the date of the notice, after deducting all credits and offsets;

(2) The name of the individual who received care;

(3) The name, address and telephone number of the long term care facility;

(4) A statement that the amount claimed is a true and bona fide existing debt as of the date of filing the notice of lien;

(5) A statement that the lien may cover contracted services provided by the long term care facility subsequent to the services itemized under subsection (1) of this section and that interested persons may obtain information on the current amount due under the lien by contacting the long term care facility;

(6) A statement that the long term care facility has given the individual or an authorized representative a written summary of the requirements and procedures for establishing eligibility for Medicaid, including the right to an assessment that determines the extent of spouses' nonexempt resources at the time of institutionalization and attributes to the community spouse an equitable share of the resources that can not be considered available for payment of costs for the medical care of the institutionalized spouse in the process of spending down to Medicaid eligibility levels. The written statement shall be given no fewer than 30 days and no more than 60 days before the notice of lien is filed. The long term care facility may meet the requirement of this subsection by providing written materials relating to Medicaid eligibility for long term care services for persons with disabilities and elderly persons used by the Department of Human Services; and

(7) A description of the real property to be charged with the lien that complies with ORS 93.600. [1995 c.749 §4; 1997 c.744 §6; 2001 c.900 §12; 2007 c.70 §17]

Note: See note under 87.501.

87.515 [Amended by 1957 c.420 §1; 1959 c.521 §1; repealed by 1975 c.648 §72]

87.517 Recording notice of lien. The recording officer of the county shall record the notices filed under ORS 87.507 in the record of deeds and mortgages. [1995 c.749 §5; 1997 c.744 §7]

Note: See note under 87.501.

87.522 Foreclosure of lien; attorney fees. A lien created by ORS 87.503 may be foreclosed by an action in the circuit court in accordance with ORS chapter 88. In a suit to foreclose a lien created by ORS 87.503, the court, upon entering judgment for the lien claimant, shall allow as part of the lien the moneys paid for the recording of the notice of lien under ORS 87.517. The court shall also allow reasonable attorney fees at trial and on appeal to the prevailing party. [1995 c.749 §6]

Note: See note under 87.501.

87.525 [Repealed by 1975 c.648 §72]

87.527 Limitations on property subject to lien. Notwithstanding ORS 87.503 (1):

(1) A lien created by ORS 87.503 on the home of a living individual who received care may not be foreclosed for as long as any of the following individuals reside in the home:

(a) The individual who received care.

(b) The spouse of the individual.

(c) A child of the individual, if the child is a minor or has a disability.

(d) A sibling of the individual who has an equity interest in the home, but only when the sibling continuously resided in the home during the calendar year immediately preceding the date on which the individual first received care.

(e) Any other child of the individual, but only when the child continuously resided in the home during the two-year period immediately preceding the date on which the individual first received care and provided assistance during that period that delayed the need for care.

(2) A lien created by ORS 87.503 on the home of a deceased individual who received care may not be foreclosed for as long as any of the following individuals reside in the home:

(a) The surviving spouse of the individual.

(b) A child of the individual, if the child is a minor or has a disability.

(c) A sibling of the individual, but only when the sibling continuously resided in the home during the calendar year immediately preceding the date on which the individual first received care.

(d) Any other child of the individual, but only when the child continuously resided in the home during the two-year period immediately preceding the date on which the individual first received care and provided assistance during that period that delayed the need for care.

(3) A lien created by ORS 87.503 on other real property of a deceased individual may not be foreclosed while there is:

(a) A surviving spouse; or

(b) A child of the individual, if the child is a minor or has a disability. [1995 c.749 §7; 1997 c.744 §8; 2007 c.70 §18]

Note: See note under 87.501.

87.530 [Repealed by 1975 c.648 §72]

87.533 Assets and income that are exempt from lien. A lien created by ORS 87.503 shall not be enforced so as to interfere with:

(1) Any assets or income allowed to the community spouse or dependent family member under 42 U.S.C. 1396r-5(d) or any rule of the Department of Human Services.

(2) The priority given to the recovery of medical assistance payments under ORS 115.125 (1)(i) or other medical assistance claims under ORS 414.105 (2) and (3).

(3) The eligibility of a person for medical assistance or entitlement to Medicaid assistance payments. [1995 c.749 §8; 2001 c.316 §3]

Note: See note under 87.501.

87.535 [Amended by 1957 c.684 §1; 1971 c.177 §1; repealed by 1975 c.648 §72]

87.537 Duration of lien. (1) Except as provided in subsection (2) of this section, if a suit to foreclose a lien created by ORS 87.503 is not commenced in an appropriate court within the 180-day period immediately following the date on which the lien is perfected under ORS 87.507, the lien shall cease to exist.

(2) Any period of time during which a lien created by ORS 87.503 may not be foreclosed under ORS 87.527 shall not be part of the period of time during which the lien exists under subsection (1) of this section. The existence of a lien created by ORS 87.503 shall not be extended in any case for longer than 180 days after a circumstance preventing foreclosure under ORS 87.527 ceases. A lien created by ORS 87.503 shall not continue in existence for a period of more than 10 years after the date on which the lien was perfected under ORS 87.507. [1995 c.749 §9; 1997 c.744 §9]

Note: See note under 87.501.

87.539 Discharge or release of lien claim; recordation; penalty for failure to discharge or release lien claim. (1) When a long term care facility receives payment from an individual, an individual's estate, the State of Oregon or any other source for the care claimed in a notice of lien filed under ORS 87.507, the long term care facility shall file with the recording officer of the county in which the notice of lien was filed a certificate declaring that payment has been received and that the lien is discharged.

(2) Within 20 days after being notified that the individual is eligible for Medicaid, the long term care facility shall file with the recording officer of the county in which the notice of lien was filed a certificate releasing the claim of lien upon any property protected under ORS 87.533.

(3) The recording officer of the county shall record the certificate of discharge or release in the appropriate lien docket.

(4) If, after receiving payment for the care claimed in a notice of lien filed under ORS 87.507, a long term care facility fails to discharge the lien or release the claim of lien within 10 days, the long term care facility is liable to the individual or to the spouse or the estate of the individual for $100 or the amount of actual damages, whichever amount is greater.

(5) In all actions brought under this section, the court may allow reasonable attorney fees at trial and on appeal to the prevailing party. [1995 c.749 §10; 1997 c.744 §10]

Note: See note under 87.501.

87.540 [Amended by 1957 c.684 §2; repealed by 1975 c.648 §72]

87.542 Priority of lien. (1) A lien created under ORS 87.503 shall have priority from the date of its perfection and shall be subordinate and inferior to any other lien, mortgage, trust deed or other encumbrance that attached to the real property or was recorded prior to the recording of the notice of lien under ORS 87.507. Except for property tax liens, the lien created by ORS 87.503 shall have priority over any other lien, mortgage, trust deed or other encumbrance that attached to the real property or was recorded subsequent to the recording of the notice of lien under ORS 87.507.

(2) A lien created under ORS 87.503 is void as against any purchaser in good faith and for a valuable consideration of the same real property whose interest is recorded prior to the recording of the notice of lien under ORS 87.507.

(3) ORS 93.645 shall apply to a lien created under ORS 87.503 as if the lien were a judgment lien. [1997 c.744 §5]

Note: See note under 87.501.

87.545 [Repealed by 1975 c.648 §72]

87.550 [Repealed by 1957 c.684 §3 (87.551 enacted in lieu of 87.550)]

87.551 [1957 c.684 §4 (enacted in lieu of 87.550); repealed by 1975 c.648 §72]

MEDICAL SERVICES LIEN

87.555 Hospital and physician lien. (1) Except as otherwise provided by law, whenever any person receives hospitalization or medical treatment on account of any injury, and the person, or the personal representative of the person after the death of the person, claims damages from the person causing the injury, then the hospital or any physician licensed under ORS chapter 677 who treats the injured person in the hospital or who provides medical services shall have a lien upon any sum awarded the injured

person or the personal representative of the person by judgment or award or obtained by a settlement or compromise to the extent of the amount due the hospital and the physician for the reasonable value of such medical treatment rendered prior to the date of judgment, award, settlement or compromise. However, no such lien shall be valid against anyone coming under the Workers' Compensation Act.

(2) When the injured person receiving hospitalization or medical care from a physician is the beneficiary of an insurance policy, including a policy that provides personal injury protection coverage or similar no-fault medical insurance but excluding a health insurance policy, that provides for payment of such hospitalization and medical care, both the hospital and physician shall have liens upon the amount payable under the insurance policy. If a hospital or physician has properly perfected a lien pursuant to ORS 87.565 (2), the insurer obligated to make payment shall pay the sum due under the insurance policy directly to the hospital and physician in the amount due each for services rendered, and such payment shall constitute a release of the insurer making the payment to the extent of the payment.

(3) When there are insufficient funds to satisfy in full the liens of all hospitals and physicians claiming a lien created by this section, the insurer making the payment shall prorate the available funds without regard to the sequence of the filing of the notice of lien by the hospitals or physicians, and pay the hospitals or physicians in proportion to the amount due each for services rendered. [Amended by 1989 c.727 §1; 1999 c.146 §1]

87.560 Limitations on extent of lien. (1) No lien under ORS 87.555 (1) shall be allowed:

(a) For hospitalization and treatment from a physician rendered after a settlement has been effected by or on behalf of the party causing the injury;

(b) Against any sum for necessary attorney fees, costs and expenses incurred by the injured party in securing a settlement, compromise, award or judgment; or

(c) For an amount payable for medical services under a policy that provides personal injury protection coverage provided to an injured person prior to a hospital or physician perfecting a lien under ORS 87.565 (2).

(2) This section does not preclude a hospital or a physician licensed under ORS chapter 677 from perfecting a lien under ORS 87.555. [Amended by 1989 c.727 §2; 1999 c.146 §2; 2005 c.465 §5]

87.565 Notice of lien required. (1) In order to perfect a lien under ORS 87.555 (1), a hospital, an owner or operator of a hospital or a physician shall:

(a) Not later than 30 days after the discharge of the patient from the hospital, file a notice of lien substantially in the form prescribed in ORS 87.570, containing a statement of the amount claimed, with the recording officer of the county wherein such hospital is located; and

(b) Prior to the date of judgment, award, settlement or compromise, serve a certified copy of the notice of lien by registered or certified mail upon:

(A) The person alleged to be responsible for causing the injury and from whom damages are or may be claimed or to the last-known address of the person; or

(B) The insurance carrier that has insured the person alleged to be responsible, if such insurance carrier is known.

(2) In order to perfect a lien under ORS 87.555 (2), a hospital, an owner or operator of a hospital or a physician shall:

(a) Not later than 30 days after the discharge of the patient from the hospital, file a notice of lien substantially in the form prescribed in ORS 87.570, containing a statement of the amount claimed, with the recording officer of the county wherein such hospital is located; and

(b) Serve a certified copy of the notice of lien by certified mail upon the insurance company that is obligated to make payment for hospitalization and medical services. [Amended by 1979 c.123 §1; 1989 c.727 §3; 1991 c.249 §7; 1995 c.100 §1; 1999 c.146 §3]

87.570 Form of notice. The form of the notice required by ORS 87.565 shall be substantially as follows:

_____

Notice is hereby given that _____ has rendered hospitalization services or medical treatment for _____, a person who was injured on the ____ day of _____ in the city of _____, county of _____, State of _____, on or about the ____ day of_____, and the _____ (name of claimant) hereby claims a lien upon any money due or owing or any claim for compensation, damages, contribution, settlement, award or judgment from any person alleged to have caused the injuries and any other person liable for the injury or obligated to compensate the injured person on account of the injuries. The lien applies to any person or insurer that provides for payment for hospitalization services or medical treatment rendered to the injured person, including an insurer that provides personal injury pro-

tection coverage or similar no-fault medical insurance. The hospitalization services or medical treatment was rendered to the injured person between the_____ day of _____ and the ____ day of_____.

STATEMENT OF AMOUNT DUE

_____

Thirty days have not elapsed since that time. The claimant's demand for hospitalization services or medical treatment is in the sum of $_____ and no part thereof has been paid, except $_____, and there is now due and owing and remaining unpaid thereof, after deducting all credits and offsets the sum of $_____, in which amount lien is hereby claimed.

_____, Claimant.

State of Oregon,)
) ss.
County of ____)

I, _____, being first duly sworn on oath say: That I am _____ named in the foregoing claim of lien; that I have read the same and know the contents thereof and believe the same to be true.

_____

Subscribed and sworn to before me this ____ day of _____, 2____.

_____, Notary Public.

_____

[Amended by 1989 c.727 §4; 1995 c.100 §2; 1999 c.146 §4; 2001 c.104 §27; 2007 c.71 §20]

87.575 Hospital and physician lien docket. Each recording officer shall maintain a hospital and physician lien docket in which, upon the filing of a notice of lien, the recording officer shall enter the name of the injured person, the approximate date of the hospitalization services or medical treatment, the name and address of the hospital filing the notice and the amount claimed and the name and address of the physician filing the notice and the amount claimed. The recording officer shall make an index thereto in the names of the injured persons. [Amended by 1989 c.727 §5; 1999 c.146 §5]

87.580 [Amended by 1989 c.727 §6; repealed by 1999 c.146 §6 (87.581 enacted in lieu of 87.580)]

87.581 Liability of person or insurer to hospital and physician; conditions; deadline for filing claim. (1) A person or insurer shall be liable to a hospital and physician for the reasonable value of hospitalization services and medical treatment rendered out of the moneys due under any payment, award, judgment, settlement or compromise, after paying the attorney fees, costs and expenses incurred in connection therewith, or the proportion of that amount as determined under ORS 87.555 (3), if the person or insurer:

(a) Has received a notice of lien that complies with ORS 87.565;

(b) Has not paid the hospital and physician the reasonable value of hospitalization services and medical treatment that the hospital and physician rendered; and

(c) Pays moneys to the injured person, the heirs or personal representative of the injured person, the attorney for the injured person or for the heirs or personal representative of the injured person, or a person not claiming a valid lien under ORS 87.555, as compensation for the injury suffered or as payment for the costs of hospitalization services or medical treatment incurred by the injured person.

(2) An action arising under subsection (1) of this section shall be commenced within 180 days after the date of payment under subsection (1)(c) of this section. [1999 c.146 §7 (enacted in lieu of 87.580)]

87.585 Foreclosure. The liens described in ORS 87.555 may be foreclosed by a suit in the circuit court. In any suit brought pursuant to the provisions of ORS 87.581 or this section, upon entering a judgment for the plaintiff, the court shall allow as part of the costs and disbursements all moneys paid for the filing and recording of the notice of lien, and reasonable attorney fees at trial and on appeal. [Amended by 1981 c.897 §25; 1999 c.146 §8; 2003 c.576 §344]

87.590 [Repealed by 1975 c.648 §72]

87.595 [Repealed by 1975 c.648 §72]

87.600 [Repealed by 1975 c.648 §72]

AMBULANCE SERVICES LIEN

87.603 Definitions for ORS 87.603 to 87.633. As used in ORS 87.603 to 87.633, unless the context requires otherwise:

(1) "Ambulance" has the meaning given that term in ORS 682.025.

(2) "Ambulance services" includes the transportation of an individual who is ill or injured or who has a disability in an ambulance and the administration of medical or emergency care, if necessary, while the individual is being transported.

(3) "Governmental unit" means the state, any county, city or other municipal corporation or any department, board or other agency of any of them. [1983 c.821 §2; 1985 c.16 §446; 2007 c.70 §19]

87.605 [Amended by 1955 c.136 §1; repealed by 1975 c.648 §72]

87.607 Ambulance services lien. When an individual receives ambulance services provided by any person or governmental unit, if the individual has a contract providing for indemnity or compensation for the sum incurred for those services, the person or gov-

ernmental unit providing the ambulance services has a lien upon the amount payable under the contract. The party obligated to make reimbursement under the contract may pay the sum due thereunder directly to the person or governmental unit, and that payment shall constitute a full release of the party to the amount of the payment. [1983 c.821 §3]

87.610 [Repealed by 1975 c.648 §72]

87.613 Notice of lien required. In order to perfect the lien described in ORS 87.607, the person or an officer of the governmental unit that provided the ambulance services shall:

(1) Not later than 15 days after providing the ambulance services, file a notice of lien with the recording officer of the county in which the individual who received the ambulance services resides; and

(2) Prior to the date of judgment, settlement or compromise, serve a certified copy of the notice of lien by registered or certified mail upon the insurer or health care service contractor which has agreed to indemnify or compensate the individual for any costs incurred for ambulance services. [1983 c.821 §4]

87.615 [Repealed by 1975 c.648 §72]

87.617 Form of notice; contents. The notice of lien required under ORS 87.613 shall be a statement in writing verified by the oath of the person or an officer of the governmental unit asserting the lien claim and must contain:

(1) A true statement of demand, after deducting all credits and offsets;

(2) The name of the individual who received ambulance services;

(3) An itemized statement of the ambulance services provided;

(4) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice of lien; and

(5) The date on which payment for the ambulance services is due. [1983 c.821 §5]

87.620 [Repealed by 1975 c.648 §72]

87.623 Notices recorded in hospital lien docket. The recording officer of the county shall record the notices filed under ORS 87.613 in the hospital lien docket maintained under ORS 87.575. [1983 c.821 §6]

87.625 [Repealed by 1975 c.648 §72]

87.627 Payment after notice of lien; liability to provider of services; exception. (1) Except as provided in subsection (2) of this section, when an insurer or health care service contractor receives a certified copy of a notice of lien from a person or governmental unit under ORS 87.613, if the insurer or health care service contractor makes any payment to the individual named in the notice without paying the person or governmental unit the amount claimed by the person or governmental unit in the notice, the insurer or health care service contractor is liable to the person or governmental unit for the amount claimed in the notice of lien. For 180 days after the date of such payment, the person or governmental unit has a cause of action against the insurer or health care service contractor.

(2) If an insurer or health care service contractor pays for ambulance services according to the terms of its policy or contract in response to a claim received earlier than the certified copy of a notice of lien for those ambulance services is received under ORS 87.613, then the insurer or health care service contractor is not liable for the amount claimed in the notice of lien and the person or governmental unit has no cause of action under ORS 87.603 to 87.633 against the insurer or health care service contractor. [1983 c.821 §7]

87.630 [Repealed by 1975 c.648 §72]

87.633 Foreclosure. The lien described in ORS 87.607 may be foreclosed by a suit in the circuit court. [1983 c.821 §8]

87.635 [Repealed by 1975 c.648 §72]

87.640 [Repealed by 1975 c.648 §72]

87.645 [Repealed by 1975 c.648 §72]

87.650 [Repealed by 1975 c.648 §72]

87.655 [Repealed by 1975 c.648 §72]

87.660 [Repealed by 1975 c.648 §72]

87.665 [Repealed by 1975 c.648 §72]

87.670 [Repealed by 1975 c.648 §72]

87.675 [Repealed by 1975 c.648 §72]

SELF-SERVICE STORAGE FACILITY LIEN

87.685 Definitions for ORS 87.685 to 87.693. As used in ORS 87.685 to 87.693, unless the context requires otherwise:

(1) "Default" means the failure to perform in a timely manner any obligation or duty set forth in the rental agreement.

(2) "Last known address" means the address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

(3) "Occupant" means a person or a sublessee, successor or assignee of the person who is entitled, under a rental agreement, to the exclusive use of specified storage space at a self-service storage facility.

(4) "Owner" means the owner, operator, lessor or sublessor of a self-service storage facility or an agent or any other person authorized by the owner, operator, lessor or

sublessor to manage the facility or to receive rent from an occupant under a rental agreement.

(5) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, merchandise, household items and watercraft.

(6) "Rental agreement" means any written agreement or lease that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of a self-service storage facility.

(7) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the storage space for the purpose of storing and removing personal property. The term does not include a warehouse or other facility used for storage of personal property and at which a warehouse receipt, bill of lading or other document of title covering the personal property is issued under ORS chapter 77 by the warehouseman or other person operating the facility. The term "self-service storage facility" does not include real property used for residential purposes. [1997 c.374 §2]

Note: 87.685 to 87.695 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 87 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

87.686 Rental agreement; statement of insurance held by owner. (1) Each rental agreement shall describe whether personal property of the occupant stored at the self-service storage facility is protected by insurance held by the owner.

(2) If the personal property is protected by insurance held by the owner, the rental agreement shall contain a statement describing the nature of the insurance coverage.

(3) If the personal property is not protected by insurance held by the owner, the rental agreement shall contain a statement indicating that the personal property of the occupant is not protected by insurance held by the owner.

(4) At the time the occupant signs the rental agreement, the occupant shall initial the applicable statement described in subsection (2) or (3) of this section regarding insurance. [1999 c.719 §2]

Note: See note under 87.685.

87.687 Self-service storage facility owner's possessory lien; attachment of lien; priority of lien. (1) The owner of a self-service storage facility has a lien upon all personal property, whether or not owned by the occupant, that is located in a specified storage space rented by an occupant at the facility to secure payment for rent, reasonable or agreed charges for labor, materials or other services provided by the owner at the request of the occupant, expenses necessarily incurred in preserving the personal property and expenses reasonably incurred in the sale or other disposition of the personal property under ORS 87.689. The owner may retain the personal property until the rent and other charges and expenses are paid.

(2) The lien created by this section attaches to personal property of an occupant at the time at which the personal property is stored at the self-service storage facility.

(3) Except for a lien or security interest that is perfected prior to the attachment of the lien created by this section, the lien created by this section has priority over any other lien or security interest or encumbrance on the personal property subject to the lien. [1997 c.374 §3]

Note: See note under 87.685.

87.689 Notice of foreclosure and sale. (1) The lien created by ORS 87.687 may be foreclosed upon default by the occupant.

(2) Before an owner may foreclose a lien created by ORS 87.687 by sale, the owner shall give notice of the foreclosure and sale to the occupant by registered or certified mail sent to the occupant at the last known address of the occupant.

(3) Notice provided under this section shall include:

(a) An itemized statement of the owner's claim showing the sum due at the time of notice.

(b) An identification of the specific unit rented by the occupant at the self-service storage facility.

(c) A statement that access to the occupant's personal property stored at the self-service storage facility is denied, if such denial is permitted under the terms of the rental agreement.

(d) A demand for payment within a specified time not earlier than 30 days after default.

(e) A conspicuous statement declaring that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale and will be sold at a specified time and place.

(f) The name, street address and telephone number of the owner or the owner's designated agent whom the occupant may contact to respond to the notice.

(4) Any notice given under this section is presumed delivered when it is properly addressed with postage prepaid and deposited with the United States Postal Service. [1997 c.374 §4]

Note: See note under 87.685.

87.691 Sale of property subject to lien; advertisement of sale; satisfaction of lien before sale; use of sale proceeds. (1) After the expiration of the time specified in the notice given under ORS 87.689, if the personal property subject to the lien created by ORS 87.687 has a fair market value of $100 or less, the owner may dispose of the property in the sole discretion of the owner.

(2) After the expiration of the time specified in the notice given under ORS 87.689, if the personal property subject to the lien created by ORS 87.687 has a fair market value of more than $100, an advertisement of the sale shall be published once a week for two consecutive weeks in a newspaper of general circulation in the city or county in which the self-service storage facility is located. If there is no newspaper of general circulation in such city or county, the advertisement shall be posted in not less than six conspicuous places in the neighborhood in which the self-service storage facility is located. The advertisement shall include:

(a) The address of the self-service storage facility, the number, if any, of the space where the personal property is located and the name of the occupant.

(b) The time, place and manner of the sale.

(3) The sale of the personal property shall not take place earlier than 15 days after the first publication or posting. The sale shall conform to the terms stated in the advertisement published or posted under this section.

(4) The sale of the personal property shall be held at the self-service storage facility or at a suitable place closest to where the personal property is held or stored.

(5) If no bids are received at the public sale held under this section, the owner may otherwise dispose of the property in the sole discretion of the owner.

(6) Before any sale or other disposition of the personal property under this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to the personal property.

(7) After a sale under this section, the owner may satisfy the lien created by ORS 87.687 from the proceeds of the sale, but shall hold the balance, if any, for delivery on demand to the occupant. If the occupant does not claim the balance of the proceeds within two years after the date of sale, the balance of the proceeds shall become the property of the owner without further recourse by the occupant.

(8) A purchaser in good faith of the personal property sold to satisfy a lien created by ORS 87.687 takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section and ORS 87.689. [1997 c.374 §5]

Note: See note under 87.685.

87.693 ORS 87.687 as exclusive law for creating lien; exception. (1) Except as provided in subsection (2) of this section, ORS 87.687 is the sole and exclusive statute creating a lien applicable to personal property in self-service storage facilities.

(2) If a motor vehicle is stored or parked at a self-service storage facility, upon default, the owner may proceed as an owner of a parking facility under ORS 98.810 to 98.818. [1997 c.374 §6]

Note: See note under 87.685.

87.695 Short title. ORS 87.685 to 87.695 shall be known as the Oregon Self-Service Storage Facility Act. [1997 c.374 §1; 1999 c.59 §253]

Note: See note under 87.685.

AGRICULTURAL PRODUCE LIEN

87.700 Definitions for ORS 87.228 and 87.700 to 87.736. As used in ORS 87.228 and 87.700 to 87.736, unless the context otherwise requires:

(1) "Agricultural produce" means horticultural products, viticultural products, fruit, berries, vegetables, hops, mint oil, hazelnuts or other nuts, dairy products, bee products, vermiculture products, hay or straw baled and prepared for market, meat animals and Christmas trees as defined in ORS 571.505.

(2) "Agricultural producer" means a person that engages in or has engaged in the business of growing or producing agricultural produce for market or for delivery or transfer to others owning or holding title to the produce. "Agricultural producer" includes a landowner, producer, landlord, tenant, sharecropper or other person who participates in the growing of agricultural produce and receives a share of the produce.

(3) "Meat animal" has the meaning for that term provided in ORS 603.010.

(4) "Person" means individual, corporation, partnership, association, joint stock company, trust, limited liability company, limited liability partnership, cooperative, government entity, unincorporated organization or other business entity.

(5) "Purchaser" does not include a cooperative organized and operating under ORS chapter 62, including a foreign cooperative

authorized to do business in this state under ORS chapter 60, if the agricultural producer is a member of the cooperative.

(6) "Security interest" has the meaning given that term in ORS 71.2010 (37). [1973 c.647 §2; 1975 c.703 §6; 1999 c.612 §1; 2001 c.301 §10; 2005 c.657 §4]

87.705 Agricultural produce lien; date lien attaches. (1) An agricultural producer that delivers or transfers agricultural produce for consideration to a purchaser has a lien for the contract price of that produce, or for the reasonable value of the produce if there is no contract price. The lien created by this section attaches to all agricultural produce, whether in a raw or processed condition, delivered or transferred to the purchaser by any agricultural producer and to all other inventory of the purchaser. The lien also attaches to proceeds received by the purchaser from the sale by the purchaser to a third party of any raw or processed agricultural produce. If the agricultural produce that an agricultural producer delivers to the purchaser consists of meat animals, the lien also attaches to all accounts receivable by the purchaser from the sale of any agricultural produce to a third party. The lien on the agricultural produce, inventory, proceeds or accounts receivable attaches on the date physical possession of the agricultural produce is delivered or transferred by the agricultural producer to the purchaser or an agent of the purchaser.

(2) An agricultural producer that claims a lien under subsection (1) of this section need not file any notice in order to perfect the lien. The agricultural producer must file a notice of lien as provided in ORS 87.710 to extend the lien beyond the normal expiration date.

(3) The lien created by this section is subject to the provisions of ORS 79.0320 (1).

(4) An agreement by an agricultural producer purporting to waive the right to file notice under ORS 87.710 of a lien created by this section is void as contrary to public policy. [1973 c.647 §3; 1975 c.648 §53; 1999 c.612 §2; 2001 c.301 §11; 2007 c.71 §21]

87.710 Filing notice of lien; duration of lien; contents of notice; notice to secured parties; effect of failure to give notice to secured parties. (1) A lien created under ORS 87.705 expires no later than the end of the 45th day after the date that the final payment to the agricultural producer is originally due, unless the producer extends the lien as provided in subsection (2) of this section. If the agricultural producer extends the lien, the lien expires no later than the 225th day after the date that the final payment to the producer is originally due.

(2) An agricultural producer may extend a lien created under ORS 87.705 by filing a notice of lien with the Secretary of State. The agricultural producer may file the notice only during the period after the date that payment for the agricultural produce is originally due and no later than the 45th day after the date that the final payment for the produce is due. The notice must be supported by affidavit and contain:

(a) A true statement of the agricultural producer's demand after deducting all credits and offsets;

(b) The name of the purchaser that received the agricultural produce to be charged with the lien;

(c) A description of the produce delivered or transferred by the producer sufficient to identify the basis for the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice of lien;

(e) The date that the final payment to the producer was originally due; and

(f) Such other information as the Secretary of State may require.

(3) If an agricultural producer files a notice of lien under this section, the producer shall send notice to all persons that have filed a financing statement under ORS chapter 79 that perfects a security interest in all or part of the same inventory, proceeds or accounts receivable. The notice to those persons must provide the same information contained in the notice of lien required by subsection (2) of this section and be sent by certified mail, return receipt requested.

(4) The agricultural producer must send notice to other persons as required by subsection (3) of this section no later than the 20th day after filing the notice of lien. If the agricultural producer does not send a person notice within the required time, the lien created under ORS 87.705 becomes subordinate to that person's perfected security interest in the agricultural produce, proceeds or accounts receivable of the purchaser.

(5) For purposes of this section, final payment to the agricultural producer for agricultural produce is due:

(a) On the date specified for payment in the contract between the purchaser and the producer; or

(b) If there is no contract or no date of payment is specified in the contract, two business days after the purchaser takes delivery of the produce.

(6) Notwithstanding ORS 174.120, for purposes of this section and ORS 87.730 and 87.735, if the last day of the period for performing an act is a Saturday, or a legal hol-

iday as specified in ORS 187.010 and 187.020, the period runs until the end of the next day that is not a Saturday or legal holiday. [1973 c.647 §4; 1975 c.648 §54; 1975 c.703 §7; 1999 c.612 §3; 2001 c.301 §12]

87.715 Priority. Except for tax liens, and except as provided in ORS 87.146 (1)(c) and 87.710 (4), the class of lien created by ORS 87.705 is prior and superior to all other classes of lien or any classes of security interest in the inventory, proceeds or accounts receivable of a purchaser, without regard to whether those other liens or security interests attached to the inventory, proceeds or accounts receivable before or after a lien created by ORS 87.705 attaches. Except as provided in ORS 87.710 (4), all liens of the class created under ORS 87.705, regardless of the date of attachment or the date of notice of lien, are of equal priority and payable pro rata in proportion to the size of each lien. This section does not prohibit an unequal pro rata recovery between agricultural producers supplying meat animals and other agricultural producers if the inequality results from a lien on accounts receivable created under ORS 87.705. [1973 c.647 §5; 2001 c.301 §13]

87.720 [1973 c.647 §6; 1991 c.230 §22; repealed by 2001 c.301 §25]

87.725 Foreclosure; costs allowable to prevailing plaintiff. (1) The lien created by ORS 87.705 shall be foreclosed in the manner provided by law for the foreclosure of liens generally.

(2) In all suits under ORS 87.228 and 87.700 to 87.736, the court shall, upon entering judgment for the plaintiff, allow as a part of the costs all moneys paid for the filing and recording of the lien, and a reasonable amount for attorney fees at trial and on appeal. [1973 c.647 §7; 1981 c.897 §26]

87.730 Expiration of lien for failure to bring timely foreclosure suit. A lien created under ORS 87.705 expires unless suit to foreclose the lien is brought in an appropriate court no later than the 45th day after the date final payment to the agricultural producer is originally due or, if the producer extends the lien by filing a notice of lien under ORS 87.710, no later than the 225th day after the date final payment to the producer is originally due. [1973 c.647 §8; 2001 c.301 §14]

87.735 Filing certificate of lien satisfaction upon payment for produce; liability of producer for failure to discharge lien. (1) When an agricultural producer receives full payment for agricultural produce, if the producer has filed a notice under ORS 87.710 (2) to extend a lien or under ORS 87.725 to foreclose a lien, the producer shall file with the Secretary of State a certificate declaring that full payment has been received from the purchaser and that the lien is discharged.

(2) Upon receiving the certificate, the Secretary of State shall enter the certificate in the index maintained by the secretary for filing financing statements pursuant to ORS chapter 79.

(3) If an agricultural producer that receives full payment for agricultural produce fails to file the certificate described in subsection (1) of this section on or before the 10th day after receiving a request for filing from a purchaser, the producer is liable to the purchaser in the sum of $100 damages and for all actual damages caused by the failure, to be recovered in an action at law. [1973 c.647 §9; 1999 c.612 §4; 2001 c.301 §15]

87.736 Form of notices filed under ORS 87.710 and certificates filed under ORS 87.735; fees for filing and for furnishing copies. (1) Notices filed with the Secretary of State under ORS 87.710 and certificates filed with the Secretary of State under ORS 87.735 must be in a form prescribed by the Secretary of State. The Secretary of State shall include the notices and certificates in the index maintained by the secretary for filing financing statements pursuant to ORS chapter 79. The secretary shall maintain the notices and certificates as public records for a period of time established by the secretary.

(2) The Secretary of State shall establish fees pursuant to ORS 177.130 for filing notices and certificates and for furnishing copies of notices or certificates. Fees established pursuant to this subsection are nonrefundable. [2001 c.301 §2]

87.740 [1973 c.647 §10; 1983 c.740 §7; 1999 c.612 §5; 2001 c.301 §16; renumbered 87.228 in 2001]

GRAIN PRODUCER'S LIEN

87.750 Definitions for ORS 87.750 to 87.777. As used in ORS 87.750 to 87.777, unless the context otherwise requires:

(1) "Agricultural producer" means a person that engages in or has engaged in the business of growing or producing grain for market or for delivery or transfer to others owning or holding title to the grain. "Agricultural producer" includes a landowner, producer, landlord, tenant, sharecropper or other person who participates in the growing of grain and receives a share of the grain.

(2) "Grain" means wheat, seed corn, corn used for animal feed, oats, barley, rye, flaxseed, certified alfalfa seed, agricultural seed as defined in ORS 633.511 (1), vegetable seed as defined in ORS 633.511, the seed of any cereal grain, soybeans, grain sorghum, dry beans and dry peas and any other grain

for which standards are established or followed by the State Department of Agriculture.

(3) "Inventory" means all grain purchased or received from agricultural producers, whether in bulk lots or in blended or packaged form. "Inventory" does not include the equipment or supplies of the person holding or owning the grain.

(4) "Person" means individual, corporation, partnership, association, joint stock company, business trust, limited liability company, limited liability partnership, cooperative, government entity, unincorporated organization or other business entity. [1981 c.446 §2; 1983 c.141 §1; 1995 c.371 §10; 2001 c.301 §17]

87.755 Grain producer's lien; date lien attaches; priority. (1) An agricultural producer that delivers or transfers grain for consideration has a lien on the inventory of the purchaser and proceeds received by the purchaser from the selling of the inventory.

(2) The lien created by subsection (1) of this section attaches to the inventory and proceeds on the date physical possession of the grain is delivered or transferred by the agricultural producer to the purchaser or an agent of the purchaser. If grain is delivered or transferred by an agricultural producer to a person other than the purchaser for cleaning or storage, the lien attaches when the grain is physically delivered or transferred to the purchaser or an agent of the purchaser for agreed consideration.

(3) Except as provided under ORS 87.146 (1)(c) and 87.762 (4), the class of lien created by subsection (1) of this section is prior and superior to all other classes of lien or any classes of security interest in the inventory or proceeds, regardless of whether the creditor's lien or security interest attached to the inventory or proceeds before or after the agricultural producer's lien attached under subsection (2) of this section. Except as provided in ORS 87.762 (4), all liens of the class created under subsection (1) of this section, regardless of the date of attachment or the date of notice of lien, are of equal priority and payable pro rata in proportion to the size of each lien.

(4) An agricultural producer who claims a lien under subsection (1) of this section need not file any notice in order to perfect the lien. The agricultural producer must file a notice of lien as provided under ORS 87.762 to extend the lien beyond the normal expiration date.

(5) The lien created by subsection (1) of this section is subject to the provisions of ORS 79.0320 (1).

(6) The lien created by subsection (1) of this section is discharged with regard to inventory that is sold by the purchaser or an agent of the purchaser to a third party. Notwithstanding a discharge with regard to inventory sold to a third party, an agricultural producer continues to hold a lien on the proceeds from the sale to a third party and on all remaining inventory of the purchaser.

(7) An agreement by an agricultural producer purporting to waive the right to file notice under ORS 87.762 of a lien created by subsection (1) of this section is void as contrary to public policy. An agricultural producer may waive the right to file notice under ORS 87.762 if the purchaser is an association of which the agricultural producer is a member. [1981 c.446 §3; 2001 c.301 §18; 2001 c.445 §163]

87.760 [1973 c.145 §2; repealed by 1975 c.648 §72]

87.762 Filing notice of lien; duration of lien; contents of notice; notice to secured parties; effect of failure to give notice to secured parties. (1) A lien created under ORS 87.755 expires no later than the end of the 180th day after the date the lien attaches, unless the agricultural producer extends the lien by filing a notice of lien as provided in this section. If the agricultural producer extends the lien, the lien expires no later than 18 months after the date the lien attaches.

(2) At any time prior to expiration of the initial lien period, an agricultural producer may extend a lien created under ORS 87.755 by filing a notice of lien with the Secretary of State. The notice must be supported by affidavit and contain:

(a) A true statement of the demand of the agricultural producer after deducting all credits and offsets;

(b) The name of the person that purchased the grain from the producer;

(c) A description of the grain delivered or transferred by the producer sufficient to identify the basis for the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of filing the notice of lien;

(e) The date payment to the producer was originally due; and

(f) Such other information as the Secretary of State may require.

(3) If an agricultural producer files a notice of lien under this section, the producer shall send notice to all persons that have filed a financing statement under ORS chapter 79 that perfects a security interest in all or part of the inventory of the purchaser or the proceeds from the sale of the inventory. The notice to the secured parties must provide the same information contained in the notice required by subsection (2) of this sec-

tion and be sent by certified mail, return receipt requested.

(4) The agricultural producer must send notice to other persons as required by subsection (3) of this section no later than the 20th day after filing the notice of lien. If the agricultural producer does not send a person notice within the required time, the lien created under ORS 87.755 becomes subordinate to that person's perfected security interest in the inventory or proceeds of the purchaser.

(5) Notwithstanding ORS 174.120, for purposes of this section and ORS 87.772 and 87.777, if the last day of the period for performing an act is a Saturday, or a legal holiday as specified in ORS 187.010 and 187.020, the period runs until the end of the next day that is not a Saturday or legal holiday. [1981 c.446 §4; 2001 c.301 §19]

87.765 [1973 c.145 §3; repealed by 1975 c.648 §72]

87.767 Form of notice; public record; fee. (1) Notices filed with the Secretary of State under ORS 87.750 to 87.777 must be in a form prescribed by the Secretary of State. The Secretary of State shall include the notice of lien that is filed under ORS 87.762 (2) in the index maintained by the secretary for filing financing statements pursuant to ORS chapter 79. The Secretary of State shall maintain the notices as public records for a period of time established by the secretary.

(2) The Secretary of State shall establish fees pursuant to ORS 177.130 for filing notices and requests for copies of notices. Fees established pursuant to this subsection are nonrefundable. [1981 c.446 §5; 1999 c.464 §4; 2001 c.301 §20]

87.770 [1973 c.145 §4; repealed by 1975 c.648 §72]

87.772 Expiration of lien for failure to bring timely foreclosure action; manner of foreclosure. (1) A lien created under ORS 87.755 (1) expires unless suit to foreclose the lien is brought in an appropriate court no later than the 180th day after the date that the lien attaches, or if the agricultural producer extends the lien by filing a notice of lien under ORS 87.762, no later than 18 months after the date the lien attaches.

(2) Regardless of whether the lien created under ORS 87.755 (1) has been extended by filing and giving notice under ORS 87.762, the lien shall be foreclosed in the manner provided by law for the foreclosure of liens generally.

(3) In all suits under ORS 87.750 to 87.777, the court shall, upon entering judgment for the plaintiff, allow as a part of the costs all moneys paid for the filing and recording of the lien and a reasonable amount for attorney fees. [1981 c.446 §6; 2001 c.301 §21]

87.775 [1973 c.145 §5; repealed by 1975 c.648 §72]

87.777 Filing certificate of lien satisfaction upon payment for grain; liability of producer for failure to discharge lien. (1) If an agricultural producer files a notice of lien under ORS 87.762, when the producer receives full payment for the grain, the producer shall file with the Secretary of State a certificate declaring that full payment has been received and that the lien is discharged.

(2) Upon receiving the certificate, the Secretary of State shall enter it in the index maintained by the secretary for filing financing statements pursuant to ORS chapter 79.

(3) If an agricultural producer that receives full payment for grain fails to file a certificate described in this section on or before the 10th day after receiving a request for filing from a purchaser, the producer is liable to the purchaser of the grain in the sum of $100 damages and for all actual damages caused by the failure, to be recovered in an action at law. [1981 c.446 §7; 2001 c.301 §22]

87.780 [1973 c.145 §6; repealed by 1975 c.648 §72]

87.785 [1973 c.145 §7; repealed by 1975 c.648 §72]

87.790 [1973 c.145 §8; repealed by 1975 c.648 §72]

UNIFORM FEDERAL TAX LIEN REGISTRATION ACT

87.805 [Repealed by 1967 c.445 §1]

87.806 Filing of federal tax liens. (1) Notices of liens, certificates and other notices affecting federal tax liens or other federal liens must be filed in accordance with ORS 87.806 to 87.855.

(2) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the recorder of conveyances, in counties which have a recorder of conveyances, and in other counties in the offices of the county clerks of the county or counties in this state within which the real property subject to the liens is situated.

(3) After October 15, 1983, notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the Secretary of State. [1967 c.445 §2; 1981 c.852 §2; 1983 c.220 §1]

87.810 [Repealed by 1967 c.445 §1]

87.811 Certification of tax lien notices. Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or the delegate of the secretary, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed and no other attestation, certification or ac-

knowledgment is necessary. [1967 c.445 §3; 1981 c.852 §3]

87.815 [Repealed by 1967 c.445 §1]

87.816 Keeping of index and files with respect to tax liens; certification by filing officer; fee; rules. (1) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (2) of this section is presented to a filing officer who is:

(a) The Secretary of State, the secretary shall cause the notice or refiled notice to be marked, held and indexed in accordance with the provisions of ORS 79.0519 as if the notice or refiled notice were a financing statement within the meaning of ORS chapter 79; or

(b) Any other officer described in ORS 87.806, the officer shall indorse thereon the identification of the officer and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice or refiled notice, the date and time of receipt, the title and address of the official or entity certifying the lien and the total amount appearing on the notice of lien or refiled notice of lien.

(2) If a certificate of release, nonattachment, discharge or subordination of any lien is presented to the Secretary of State for filing, the secretary shall:

(a) Cause a certificate of release to be marked, held and indexed as if the certificate were a termination statement within the meaning of ORS 79.0512;

(b) Cause a certificate of discharge or subordination to be held, marked and indexed as if the certificate were a release of collateral within the meaning of ORS 79.0512; and

(c) Cause a certificate of nonattachment to be marked, held and indexed as if the certificate were an amendment of a financing statement within the meaning of ORS 79.0512.

(3) If any refiled notice of federal lien or notice of revocation referred to in subsection (1) of this section or any of the certificates specified in subsection (2) of this section is presented for filing with any other filing officer specified in ORS 87.806, the officer shall permanently attach the refiled notice, certificate or notice to the original notice of lien and shall enter the refiled notice, certificate or notice with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

(4) Upon request of any person, the filing officer shall issue the certificate of the filing officer showing whether there is on file in the officer's office, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien naming a particular person, and if a notice or certificate is on file, giving the date and hour of its filing. All financing statements and statements of assignment, if any, filed pursuant to ORS chapter 79 for a particular debtor whose name is identical to the particular person named in the lien shall be shown on this certificate. The uniform fee for such a certificate for a particular person shall be prescribed by the Secretary of State by rule. If the request for the certificate is in writing and not in the standard form prescribed by the Secretary of State, an additional fee shall be prescribed. Upon request the filing officer shall furnish a copy of any notice of federal lien or notice or certificate affecting a federal lien for a fee as prescribed by the Secretary of State by rule under ORS 79.0525.

(5) Notice of a federal lien or a refiling of a notice of federal lien is effective for a period of 10 years from the date of assessment. A notice or refiling of a notice of a federal lien shall state:

(a) The date the tax was assessed; and

(b) That the effective period of the lien is as provided by federal law. [1967 c.445 §4; 1971 c.621 §18; 1975 c.607 §20; 1979 c.833 §21; 1981 c.835 §11a; 1981 c.852 §4; 1983 c.220 §2; 1985 c.442 §1; 1985 c.469 §8; 1989 c.111 §10; 1993 c.135 §1; 2001 c.445 §164]

87.820 [Repealed by 1967 c.445 §1]

87.821 Filing and indexing fee; rules. (1) The fee for filing and indexing each notice of lien or certificate or notice affecting the lien is as prescribed by the Secretary of State by rule. The fee described in this subsection shall be nonrefundable.

(2) Notwithstanding ORS 205.320, the fees described in subsection (1) of this section may be collected at the time of filing or by deferred billing in a manner approved by the filing officer. [1967 c.445 §5; 1971 c.621 §19; 1975 c.607 §21; 1979 c.294 §1; 1979 c.833 §22; 1981 c.835 §12; 1981 c.852 §5; 1989 c.111 §11; 1999 c.464 §5]

87.825 [Repealed by 1967 c.445 §1]

87.826 Construction. ORS 87.806 to 87.831 shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact the Uniform Federal Lien Registration Act. [1967 c.445 §6; 1981 c.852 §6]

87.830 [Repealed by 1967 c.445 §1]

87.831 Short title. ORS 87.806 to 87.831 may be cited as the Uniform Federal Lien Registration Act. [1967 c.445 §7; 1981 c.852 §7]

87.835 [Repealed by 1967 c.445 §1]

LIEN FOR CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

87.855 Lien for contributions to employee benefit plan; priority. (1) Every employer who is required to pay contributions, by agreement or otherwise, into a fund of

any employee benefit plan in order that the employer's employee may participate therein, shall pay such contributions in the required amounts and at the stipulated time or each employee affected thereby shall have a lien on the earnings and on all property used in the operation of the employer's business to the extent of the moneys plus any penalties due to be paid by or on the employee's behalf in order to qualify the employee for participation therein, and for any moneys expended or obligations incurred for medical, hospital or other expenses to which the employee would have been entitled had such required contributions been paid.

(2) The lien described in this section shall have priority over all other liens and encumbrances which may attach after such lien is filed pursuant to ORS 87.860 (1) and also shall have priority over all other liens and encumbrances which may have attached previous to that time, but which were not filed or recorded so as to create constructive notice thereof prior to that time, and of which the lien claimant has no notice. However, the lien described in this section shall not have priority over liens for labor performed or wages. [1963 c.604 §§1, 5; 1981 c.852 §8; 1985 c.774 §1]

87.860 Filing of claim of lien. (1) The lien claimant under ORS 87.855 (1), or the representative of the claimant, or the trustees of the employee benefit plan fund on the claimant's behalf, within 60 days after the last delinquent payment becomes due shall file for record with the recording officer of the county wherein the claimant is or was employed by such employer a notice of claim, containing a statement of the demand, the name of the employer and the name of the person employing the claimant, if known, with a statement of the pertinent terms and conditions of the employee benefit plan and the time when such contributions are due and were to have been paid, and shall deliver in person or mail by registered mail or by certified mail with return receipt to the employer a copy thereof within such time.

(2) The recording officer shall, upon presentation of the notice described in subsection (1) of this section, file it and index it in a book to be kept for that purpose called "Index of Employe Benefit Plan Liens." [1963 c.604 §§2, 3; 1985 c.774 §2; 1991 c.249 §8]

87.865 Foreclosure; joinder or consolidation; costs; limitation. (1) The lien described in ORS 87.855 may be enforced by a suit in the circuit court, and shall be governed by the laws regulating the proceedings for the foreclosure of liens generally.

(2) Any number of persons claiming liens under ORS 87.855 may join in the same suit, and when separate suits are commenced, the court may consolidate them. The court may also allow as part of the costs the moneys paid for filing and recording the claim, and a reasonable attorney fee at trial and on appeal, for each person claiming a lien.

(3) Every lien described in ORS 87.855 shall cease to exist unless a complaint to foreclose it is filed and a summons issued within six months from the date of filing of the claim of lien. [1963 c.604 §§4, 6; 1981 c.897 §27]

MOLDER'S LIEN

87.870 Definitions for ORS 87.870 to 87.876. For purposes of ORS 87.870 to 87.876, "customer," "mold" and "molder" have the meanings given those terms in ORS 98.470. [2001 c.863 §2]

87.872 Lien for mold created or work performed with mold. (1) If a molder does not retain title to a mold that the molder fabricated, molded, cast or made for a customer or if a molder performs manufacturing, assembly or fabrication work using a mold furnished by a customer, the molder shall have a lien on a mold that is retained by the molder. The amount of the lien shall be equal to the balance due to the molder from the customer for any manufacturing, assembly or fabrication work, including the value of materials. The molder may retain possession of the mold until the amount is paid.

(2) The molder shall serve notice of the lien to the customer by registered mail with return receipt requested to the last known address of the customer or by personal service. The notice of the lien shall:

(a) State that a lien is claimed for the amount described in subsection (1) of this section for manufacturing, assembly or fabrication work performed for the customer; and

(b) Demand payment of the amount within 60 days after service.

(3) If the molder is not paid the amount due within 60 days after receipt of the notice of lien by the customer and the molder complies with ORS 87.876, the molder may sell the mold at a public sale. [2001 c.863 §3]

87.876 Sale of mold. (1) Before a molder may sell a mold pursuant to ORS 87.872, the molder shall notify the customer of the sale by registered mail with return receipt requested. The notice shall include:

(a) The molder's intention to sell the mold 30 days after the customer receives the notice;

(b) A description of the mold to be sold;

(c) The time and place of the sale; and

(d) An itemized statement for the amount due.

(2) If the notice is returned to sender as undeliverable, the molder shall publish the notice in a newspaper of general circulation in the area of the last known place of business of the customer.

(3) If the mold is sold for a sum greater than the amount of the lien, the excess shall be paid to any prior recorded lienholder and any remainder to the customer, if the customer's address is known to the molder at the time of the sale, or to the General Fund, if the customer's address is unknown.

(4) The molder may not sell the mold if it would be in violation of any right of the customer under federal law. [2001 c.863 §4]

87.905 [Repealed by 1961 c.726 §427]

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. [Amended by 1975 c.648 §52; 1981 c.898 §47]

87.915 [1961 c.518 §§1,3; 1963 c.604 §7; 1969 c.330 §8; repealed by 1975 c.648 §72]

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. [1983 c.763 §62]

Note: 87.920 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 87 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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 87.226, 87.705 or 87.755, 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. [2001 c.301 §3; 2007 c.71 §22]

Note: 87.930 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 87 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.