TITLE 5

SMALL CLAIMS DEPARTMENT OF CIRCUIT COURT

Chapter 46. Small Claims Department of Circuit Court

Chapter 46

2007 EDITION

Small Claims Department of Circuit Court

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46.045 [1971 c.633 §2; 1985 c.750 §1; 1995 c.658 §39; renumbered 3.136 in 1997]

46.047 [1975 c.611 §15; 1995 c.658 §40; renumbered 3.134 in 1997]

46.050 [Amended by 1957 c.405 §3; 1961 c.724 §21; repealed by 1995 c.658 §127]

46.060 [Amended by 1957 c.661 §1; 1965 c.495 §1; 1975 c.611 §18; 1983 c.149 §1; 1985 c.342 §1; 1985 c.496 §28; 1985 c.588 §3a; 1987 c.714 §8; 1989 c.839 §33; repealed by 1995 c.658 §127]

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46.075 [1965 c.495 §4; 1985 c.496 §30; 1985 c.540 §13; 1987 c.714 §3; 1991 c.790 §6; 1995 c.781 §33; repealed by 1995 c.658 §127]

46.080 [Amended by 1957 c.661 §2; 1981 c.898 §39; repealed by 1995 c.658 §127]

46.082 [1977 c.876 §5; repealed by 1995 c.658 §127]

46.084 [1977 c.876 §6; 1987 c.714 §7; repealed by 1995 c.658 §127]

46.090 [Amended by 1955 c.664 §1; 1957 c.661 §3; repealed by 1977 c.876 §12]

46.092 [1955 c.540 §1; 1957 c.403 §1; 1965 c.510 §15; 1967 c.534 §12; 1969 c.591 §272; repealed by 1995 c.658 §127]

46.093 [1963 c.512 §2; repealed by 1965 c.510 §24]

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46.098 [1955 c.540 §4; 1957 c.403 §4; repealed by 1961 c.406 §2]

46.099 [1961 c.406 §1; 1969 c.96 §1; repealed by 1995 c.658 §127]

46.100 [Amended by 1957 c.661 §4; 1969 c.438 §1; repealed by 1995 c.658 §127]

46.110 [Amended by 1967 c.391 §1; repealed by 1979 c.284 §199]

46.120 [Amended by 1953 c.479 §4; 1973 c.827 §9; repealed by 1977 c.877 §17]

46.130 [Amended by 1957 c.405 §4; 1961 c.724 §22; 1995 c.781 §34; repealed by 1995 c.658 §127]

46.140 [Repealed by 1961 c.468 §1 (46.141 enacted in lieu of 46.140)]

46.141 [1961 c.468 §2 (enacted in lieu of 46.140); repealed by 1995 c.658 §127]

46.150 [Amended by 1969 c.96 §2; repealed by 1995 c.658 §127]

46.155 [1975 c.611 §§12,13,14; repealed by 1979 c.284 §199]

46.160 [Repealed by 1979 c.284 §199]

46.170 [Amended by 1953 c.398 §2; 1961 c.705 §1; repealed by 1965 c.510 §24]

46.175 [1961 c.705 §3; 1965 c.510 §16; 1971 c.628 §1; 1979 c.113 §1; repealed by 1981 s.s. c.3 §141]

46.180 [Amended by 1957 c.594 §3; 1961 c.705 §2; 1965 c.510 §17; 1971 c.628 §2; 1977 c.519 §3; 1981 s.s. c.3 §61; 1985 c.496 §12; 1985 c.703 §21a; repealed by 1995 c.658 §127]

46.190 [Repealed by 1995 c.658 §127]

46.200 [Amended by 1961 c.446 §2; 1969 c.96 §3; 1971 c.565 §16; repealed by 1975 c.611 §24]

46.210 [Amended by 1955 c.459 §1; repealed by 1995 c.658 §127]

46.220 [Repealed by 1953 c.393 §3]

46.221 [1953 c.393 §1; 1965 c.510 §18; 1965 c.619 §22; 1971 c.621 §8; 1973 c.381 §2; 1975 c.88 §6; 1975 c.327 §6; 1975 c.607 §11; 1977 c.875 §1; 1979 c.833 §12; 1981 c.898 §40; 1981 s.s. c.3 §92; 1981 s.s. c.3 §93; 1983 c.763 §41; 1985 c.342 §25; 1985 c.496 §8; 1987 c.725 §5; 1989 c.718 §17; 1991 c.538 §5; 1991 c.790 §5; 1995 c.273 §25; 1995 c.664 §79; 1997 c.801 §§30,30a; renumbered 46.570 in 1997]

46.223 [1985 c.342 §29; 1995 c.658 §42; renumbered 21.385 in 1997]

46.230 [Amended by 1965 c.510 §19; repealed by 1965 c.619 §39]

46.240 [Amended by 1961 c.563 §3; 1971 c.621 §9; repealed by 1973 c.381 §8]

46.250 [Amended by 1975 c.611 §20; 1977 c.416 §7; 1979 c.562 §34; 1985 c.734 §16; 1997 c.389 §7; repealed by 1995 c.658 §127]

46.253 [1975 c.611 §5; repealed by 1985 c.734 §20]

46.255 [1975 c.611 §6; 1981 c.178 §3; repealed by 1985 c.734 §20]

46.260 [Amended by 1969 c.96 §4; repealed by 1977 c.290 §5]

46.265 [1975 c.611 §7; repealed by 1995 c.658 §127]

46.270 [Amended by 1971 c.224 §2; repealed by 1995 c.658 §127]

46.274 [1955 c.664 §2; 1965 c.619 §23; 1971 c.621 §10; 1975 c.607 §12; 1979 c.833 §13; 1981 c.835 §3; 1981 s.s. c.3 §32; 1985 c.540 §15; 1995 c.273 §14; repealed by 1995 c.658 §127]

46.275 [1977 c.876 §7; repealed by 1983 c.405 §5]

46.276 [1955 c.664 §3; 1969 c.438 §2; 1987 c.586 §18; repealed by 1995 c.658 §127]

46.278 [1977 c.876 §8; 1987 c.586 §19; repealed by 1995 c.658 §127]

46.280 [Amended by 1973 c.484 §5; 1981 s.s. c.1 §11; 1983 c.763 §32; 1995 c.781 §35; repealed by 1995 c.658 §127]

46.290 [Repealed by 1981 s.s. c.3 §141]

46.300 [1959 c.552 §11; 1971 c.718 §3; 1979 c.568 §7; repealed by 1983 c.763 §9]

46.330 [1975 c.611 §2; repealed by 1995 c.658 §127]

46.335 [1975 c.611 §3; 1977 c.876 §2; 1995 c.244 §7; repealed by 1995 c.658 §127]

46.340 [1975 c.611 §4; 1985 c.540 §16; 1995 c.244 §8; repealed by 1995 c.658 §127]

46.345 [1975 c.611 §§8,9; 1981 s.s. c.3 §33; 1985 c.496 §11; repealed by 1995 c.658 §127]

46.350 [1975 c.611 §11; repealed by 1985 c.540 §47]

46.405 Small claims department; jurisdiction. (1) Except as provided in subsection (6) of this section, each circuit court shall have a small claims department.

(2) Except as provided in this section, all actions for the recovery of money, damages, specific personal property, or any penalty or forfeiture must be commenced and prosecuted in the small claims department if the amount or value claimed in the action does not exceed $750.

(3) Except as provided in this section and ORS 46.455 (2)(c), an action for the recovery of money, damages, specific personal property, or any penalty or forfeiture may be commenced and prosecuted in the small claims department if the amount or value claimed in the action does not exceed $7,500.

(4) Class actions may not be commenced and prosecuted in the small claims department.

(5) Actions providing for statutory attorney fees in which the amount or value claimed does not exceed $750 may be commenced and prosecuted in the small claims department or may be commenced and prosecuted in the regular department of the circuit court. This subsection does not apply to an action based on contract for which attorney fees are authorized under ORS 20.082.

(6) If a circuit court is located in the same city as a justice court, the circuit court need not have a small claims department if the circuit court and the justice court enter into an intergovernmental agreement that provides that only the justice court will operate a small claims department. If an intergovernmental agreement is entered into under this subsection, the agreement must establish appropriate procedures for referring small claims cases to the justice court. [1971 c.760 §2; 1973 c.812 §2; 1975 c.592 §1; 1979 c.567 §1; 1983 c.242 §1; 1985 c.367 §1; 1987 c.725 §1; 1995 c.227 §1; 1995 c.658 §43; 1997 c.378 §1; amendments by 1997 c.378 §2 repealed by 1999 c.84 §9; 1997 c.801 §78; 1999 c.84 §1; 1999 c.673 §1; 2001 c.542 §5; 2007 c.125 §1]

Note: Section 8, chapter 125, Oregon Laws 2007, provides:

Sec. 8. The amendments to ORS 46.405, 46.425, 46.461, 51.080, 55.011, 55.095 and 133.055 by sections 1 to 7 of this 2007 Act apply to all actions commenced in the small claims department of a court on or after the effective date of this 2007 Act [January 1, 2008], without regard to whether the claim for which the action is commenced arose before, on or after the effective date of this 2007 Act. [2007 c.125 §8]

46.410 [Amended by 1959 c.326 §1; 1965 c.569 §1; 1969 c.683 §1; repealed by 1971 c.760 §11]

46.415 Circuit judges to sit in department; procedure. (1) The judges of a circuit court shall sit as judges of the small claims department.

(2) No formal pleadings other than the claim shall be necessary.

(3) The hearing and disposition of all cases shall be informal, the sole object being to dispense justice promptly and economically between the litigants. The parties shall have the privilege of offering evidence and testimony of witnesses at the hearing. The judge may informally consult witnesses or otherwise investigate the controversy and give judgment or make such orders as the judge deems to be right, just and equitable for the disposition of the controversy.

(4) No attorney at law or person other than the plaintiff and defendant and their witnesses shall appear on behalf of any party in litigation in the small claims department without the consent of the judge of the court.

(5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to any action in the small claims department and in any supplementary proceeding in aid of execution after entry of a small claims judgment.

(6) Assigned claims may be prosecuted by an assignee in small claims department to the same extent they may be prosecuted in any other state court. [1971 c.760 §3; 1973 c.484 §6; 1981 s.s. c.1 §22; 1987 c.811 §1; 1993 c.282 §2; 1995 c.658 §44; 1997 c.808 §§6,7]

46.420 [Repealed by 1971 c.760 §11]

46.425 Commencement of actions; contents of claim. (1) An action in the small claims department shall be commenced by the plaintiff's filing with the clerk of the court a verified claim in the form prescribed by the court, and by paying the fee prescribed by ORS 46.570 (1)(a) for each action filed.

(2) The claim shall contain the name and address of the plaintiff and of the defendant, followed by a plain and simple statement of the claim, including the amount and the date the claim allegedly accrued. The claim shall include an affidavit signed by the plaintiff and stating that the plaintiff made a bona fide effort to collect the claim from the defendant before filing the claim with the clerk.

(3) Except in actions arising under ORS chapter 90, the plaintiff must include in a claim all amounts claimed from the defendant arising out of a single transaction or occurrence. Any plaintiff alleging damages on

a transaction requiring installment payments need only claim the installment payments due and owing as of the date of filing of the claim, and need not accelerate the remaining payments. The plaintiff may include in a claim all amounts claimed from a defendant on more than one transaction or occurrence if the total amount of the claim does not exceed $7,500.

(4) Notwithstanding subsection (3) of this section, a plaintiff bringing an action on assigned claims:

(a) Need bring an action only on those claims that have been assigned as of the date the action is filed; and

(b) May bring separate actions for each person assigning claims to the plaintiff. [1971 c.760 §4; 1977 c.875 §2; 1991 c.195 §1; 1995 c.658 §45; 1997 c.378 §4; amendments by 1997 c.378 §5 repealed by 1999 c.84 §9; 1997 c.801 §80; 1999 c.84 §2; 2007 c.125 §2]

Note: See note under 46.405.

46.430 [Repealed by 1971 c.760 §11]

46.435 [1971 c.760 §5; 1973 c.393 §2; 1977 c.875 §3; 1979 c.567 §2; repealed by 1979 c.833 §36]

46.440 [Repealed by 1971 c.760 §11]

46.441 Explanation to plaintiff of how notice may be served. The small claims department of a circuit court shall provide to each plaintiff who files a claim with the department a written explanation of how notice may be served in actions in the department. [1977 c.875 §9; 1995 c.658 §46]

46.445 Notice of claim; content; service. (1) Upon the filing of a claim in the small claims department of a circuit court, the clerk shall issue a notice in the form prescribed by the court.

(2) The notice shall be directed to the defendant, naming the defendant, and shall contain a copy of the claim.

(3) The notice and claim shall be served upon the defendant either in the manner provided for the service of summons and complaint in proceedings in the circuit courts or by certified mail, at the option of the plaintiff. If service by certified mail is attempted, the plaintiff shall mail the notice and claim by certified mail addressed to the defendant at the last-known mailing address of the defendant. The envelope shall be marked with the words "Deliver to Addressee Only" and "Return Receipt Requested." The date of delivery appearing on the return receipt shall be prima facie evidence of the date on which the notice and claim was served upon the defendant. If service by certified mail is not successfully accomplished, the notice and claim shall be served in the manner provided for the service of summons and complaint in proceedings in the circuit courts.

(4) The notice shall include a statement in substantially the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS CAREFULLY!!

Within 14 DAYS after receiving this notice you MUST do ONE of the following things:

Pay the claim plus filing fees and service expenses paid by plaintiff OR

Demand a hearing OR

Demand a jury trial

If you fail to do one of the above things within 14 DAYS after receiving this notice, then upon written request from the plaintiff the clerk of the court will enter a judgment against you for the amount claimed plus filing fees and service expenses paid by the plaintiff, plus a prevailing party fee.

If you have questions about the small claims court filing procedures after reading this notice, you may contact the clerk of the court; however, the clerk cannot give you legal advice on the claim.

[1971 c.760 §6; 1977 c.875 §4; 1977 c.877 §9a; 1989 c.741 §1; 1991 c.111 §4; 1991 c.195 §2; 1995 c.658 §47; 1997 c.872 §§8,9]

46.450 [Repealed by 1971 c.760 §11]

46.455 Admission or denial of claim; request for jury trial. Within 14 days after the date of service of the notice and claim upon the defendant as provided in ORS 46.445:

(1) If the defendant admits the claim, the defendant may settle it by:

(a) Paying to the plaintiff the amount of the claim plus the amount of all filing fees and service expenses paid by the plaintiff and mailing proof of that payment to the court.

(b) If the claim is for recovery of specific personal property, delivering the property to the plaintiff and paying to the plaintiff the amount of all filing fees and service expenses paid by the plaintiff and mailing proof of that delivery and payment to the court.

(2) If the defendant denies the claim, the defendant:

(a) May demand a hearing in the small claims department in a written request to the clerk in the form prescribed by the court, accompanied by payment of the defendant's fee prescribed; and

(b) When demanding a hearing, may assert a counterclaim in the form provided by the court; or

(c) If the amount or value claimed exceeds $750, has a constitutional right to a

jury trial and may claim that right in a written request to the clerk in the form prescribed by the court, accompanied by payment of the appearance fee required from defendants in circuit court actions together with the amount of the circuit court jury trial fee for the first day of trial. The request shall designate a mailing address to which a summons and copy of the complaint may be served by mail. Thereafter, the plaintiff's claim will not be limited to the amount stated in the claim, though it must involve the same controversy. [1971 c.760 §7; 1973 c.654 §1; 1973 c.812 §3a; 1977 c.875 §5; 1977 c.877 §10a; 1981 s.s. c.3 §94; 1983 c.673 §2; 1985 c.496 §13; 1991 c.111 §5; 1991 c.195 §3; 1995 c.227 §2; 1995 c.455 §4; 1995 c.658 §48; 1997 c.46 §§6,7]

46.458 [1995 c.455 §2; 1995 c.618 §15b; repealed by 1997 c.46 §1]

46.460 [Amended by 1965 c.619 §24; 1969 c.683 §2; repealed by 1971 c.760 §11]

46.461 Counterclaims; fee; transfer of case to circuit court. (1) The defendant in an action in the small claims department may assert as a counterclaim any claim that, on the date of issuance of notice pursuant to ORS 46.445, the defendant may have against the plaintiff and that arises out of the same transaction or occurrence that is the subject matter of the claim filed by the plaintiff.

(2) If the amount or value of the counterclaim exceeds $7,500, the court shall strike the counterclaim and proceed to hear and dispose of the case as though the counterclaim had not been asserted unless the defendant files with the counterclaim a motion requesting that the case be transferred from the small claims department to the circuit court. After the transfer the plaintiff's claim will not be limited to the amount stated in the claim filed with the small claims department, though it must involve the same controversy.

(3)(a) If the amount or value of the counterclaim exceeds that specified in subsection (2) of this section, and the defendant files a motion requesting transfer as provided in subsection (2) of this section, the case shall be transferred to the circuit court. The clerk of the court shall notify the plaintiff and defendant, by mail, of the transfer. The notice to the plaintiff shall contain a copy of the counterclaim and shall instruct the plaintiff to file with the court and serve by mail on the defendant, within 20 days following the mailing of the notice, a reply to the counterclaim and, if the plaintiff proposes to increase the amount of the claim originally filed with the small claims department, an amended claim for the increased amount. Proof of service on the defendant of the plaintiff's reply and amended claim may be made by certificate of the plaintiff or plaintiff's attorney attached to the reply and amended claim filed with the court. The defendant is not required to answer an amended claim of the plaintiff.

(b) Upon filing the motion requesting transfer, the defendant shall pay to the clerk of the court the transfer fee required by ORS 46.570 (1)(c) and an amount equal to the difference between the fee paid by the defendant as required by ORS 46.570 (1)(a) and the fee required of a defendant by ORS 21.110. Upon filing a reply to the counterclaim, the plaintiff shall pay to the clerk of the court an amount equal to the difference between the fee paid by the plaintiff as required by ORS 46.570 (1)(a) and the fee required of a plaintiff by ORS 21.110. [1977 c.875 §10; 1979 c.567 §3; 1983 c.242 §2; 1983 c.673 §5; 1985 c.367 §2; 1985 c.496 §31; 1987 c.714 §9; 1987 c.725 §2; 1991 c.790 §7; 1995 c.658 §49; 1997 c.378 §7; amendments by 1997 c.378 §8 repealed by 1999 c.84 §9; 1997 c.801 §82; 1999 c.84 §3; 2007 c.125 §3]

Note: See note under 46.405.

46.465 Time and place of hearing; notice; procedure if right to jury trial asserted; attorney fees. (1) If the defendant demands a hearing in the small claims department, under the direction of the court the clerk shall fix a day and time for the hearing and shall mail to the parties a notice of the hearing time in the form prescribed by the court, instructing them to bring witnesses, documents and other evidence pertinent to the controversy.

(2) If the defendant asserts a counterclaim, the notice of the hearing time shall contain a copy of the counterclaim.

(3)(a) If the defendant claims the right to a jury trial, the clerk shall notify the plaintiff by mail of the requirements of this paragraph. Within 20 days after the mailing of the notice, the plaintiff must file a formal complaint with the court and serve by mail a summons and copy of the complaint on the defendant at the designated address of the defendant. Proof of service must be filed by the plaintiff with the court. Proof of service may be made by filing a certificate of the plaintiff or the plaintiff's attorney with the complaint.

(b) The plaintiff's claim in the formal complaint filed pursuant to this subsection is not limited to the amount stated in the claim filed in the small claims department, but the claim in the formal complaint must relate to the same controversy.

(c) The defendant must file an appearance in the matter within 10 days after the date on which the summons and copy of the complaint would be delivered to the defendant in due course of mail. Thereafter the cause shall proceed as other causes in the court, and costs and disbursements shall be allowed and taxed. Fees not previously paid

shall be charged and collected as provided for other cases tried in the circuit court, except that the appearance fee for the plaintiff shall be an amount equal to the difference between the fee paid by the plaintiff as required by ORS 46.570 and the fee required of the plaintiff under ORS 21.110.

(4)(a) If the defendant claims the right to a jury trial and does not prevail in the action, the court shall award to the plaintiff reasonable attorney fees incurred by the plaintiff in the action. Unless attorney fees are otherwise provided for in the action by contract or statutory provision, attorney fees awarded under this paragraph may not exceed $1,000.

(b) If the defendant asserts a counterclaim that requires transfer of the matter under the provisions of ORS 46.461, and the defendant does not prevail in the action, the court shall award to the plaintiff reasonable attorney fees incurred by the plaintiff in the action. [1971 c.760 §8; 1975 c.346 §1; 1983 c.673 §3; 1985 c.496 §14; 1991 c.790 §8; 1995 c.455 §5; 1995 c.618 §15a; 1997 c.46 §§9,10]

46.470 [Amended by 1963 c.248 §1; repealed by 1971 c.760 §11]

46.475 Additional time for appearances; default and dismissal. (1) Upon written request, the court may extend to the parties additional time within which to make formal appearances required in the small claims department of a circuit court.

(2) If the defendant fails to pay the claim, demand a hearing, or demand a jury trial and comply with ORS 46.465 (3)(c), upon written request from the plaintiff the clerk shall enter a judgment against the defendant for the relief claimed plus the amount of the small claims filing fees and service expenses paid by the plaintiff and the prevailing party fee provided by ORS 20.190.

(3) If the plaintiff fails within the time provided to file a formal complaint pursuant to ORS 46.465 (3)(a), the clerk shall:

(a) Dismiss the case without prejudice; and

(b) If the defendant applies therefor in writing to the clerk not later than 30 days after the expiration of the time provided for the plaintiff to file a formal complaint, refund to the defendant the amount of the jury trial fee paid by the defendant under ORS 46.455 (2)(c).

(4) If the defendant appears at the time set for hearing but no appearance is made by the plaintiff, the claim shall be dismissed with prejudice. If neither party appears, the claim shall be dismissed without prejudice.

(5) Upon good cause shown within 60 days, the court may set aside a default judgment or dismissal and reset the claim for hearing. [1971 c.760 §9; 1977 c.875 §6; 1985 c.496 §15; 1991 c.111 §6; 1995 c.618 §§8,8a; 1995 c.658 §51; 1997 c.46 §§12,13; 1999 c.84 §10]

46.480 [Amended by 1969 c.683 §3; repealed by 1971 c.760 §11]

46.485 Extent and effect of small claims judgment. (1) In addition to any other award, the prevailing party shall be entitled to a judgment for the small claims filing fees and service expenses paid by the party and the prevailing party fee provided for in ORS 20.190 (1)(c) or (2)(b). The prevailing party may also be awarded prevailing party fees under ORS 20.190 (3). The award shall be paid or the property delivered upon such terms and conditions as the judge may prescribe.

(2) The court may allow to the defendant a setoff not to exceed the amount of plaintiff's claim, but in such case the court shall cause to be entered in the record the amount of the setoff allowed.

(3) No attachment shall issue on any cause in the small claims department.

(4) A judgment in the small claims department is conclusive upon the parties and no appeal may be taken from the judgment.

(5) The clerk of the court shall keep a record of all actions, proceedings and judgments in the small claims department.

(6) A judgment in the small claims department is a judgment of the circuit court. The clerk shall enter such judgment in the register of the circuit court in the manner provided by ORS 18.075. A judgment in the small claims department may create a lien as provided by ORS 46.488. Judgments that include money awards, as defined by ORS 18.005, are subject to ORS 18.042. [1971 c.760 §10; 1977 c.875 §7; 1985 c.540 §17; 1991 c.111 §7; 1995 c.618 §9; 1995 c.658 §52; 1997 c.801 §60; 1999 c.84 §8; 2003 c.576 §91]

46.488 Lien effect of small claims judgments. (1) A judgment creditor may not create a judgment lien for a judgment entered in the small claims department of a circuit court if the money award is less than $10, exclusive of costs and disbursements. A judgment creditor may create a judgment lien for a judgment entered in the small claims department of a circuit court in an amount of $10 or more and less than $3,000, exclusive of costs and disbursements, only as provided in subsection (3) of this section.

(2) If a judgment is rendered in the small claims department in an amount of $3,000 or more, the clerk shall note in the register of the circuit court that the judgment creates a judgment lien if the judgment otherwise complies with the requirements of ORS chapter 18 for creating a judgment lien. A judgment creditor may create a lien for the

judgment in other counties in the manner provided by ORS 18.152.

(3) When a judgment is entered in the small claims department in an amount of $10 or more and less than $3,000, exclusive of costs or disbursements, a judgment creditor may at any time before expiration of judgment remedies for the judgment under ORS 18.180 create a judgment lien for the judgment by paying to the clerk of the court that entered the judgment the fees established by ORS 21.325 (1) and (2) and requesting that the clerk of the court note in the register and in the judgment lien record that the judgment creates a judgment lien. Upon receipt of the fees and request for creating a judgment lien, the clerk shall note in the register that the judgment creates a judgment lien. Upon entry of the notation in the register, the judgment creates a lien as described in ORS 18.150, and a judgment creditor may create a lien for the judgment in other counties in the manner provided by ORS 18.152. [1997 c.801 §57; 1997 c.801 §58; 1999 c.195 §3; 1999 c.1095 §12; 2003 c.576 §92; 2003 c.737 §§77,78; 2007 c.339 §11]

Note: Section 8 (1) and (2), chapter 195, Oregon Laws 1999, provides:

Sec. 8. (1) The amendments to ORS 18.350 by section 1 of this 1999 Act, and the amendments to ORS 46.488 by section 58, chapter 801, Oregon Laws 1997, and by section 3 of this 1999 Act, do not affect any judgment docketed in the circuit court under the provisions of ORS 46.488 (1997 Edition) before the effective date of this 1999 Act [October 23, 1999]. Notwithstanding the amendments to ORS 46.488 by section 58, chapter 801, Oregon Laws 1997, and by section 3 of this 1999 Act, any judgment entered in the small claims department of a circuit court before the effective date of this 1999 Act that was not docketed in the circuit court under the provisions of ORS 46.488 (1997 Edition) before the effective date of this 1999 Act may become a lien on real property only in the manner provided by ORS 46.488 (1997 Edition).

(2) Any judgment docketed before the effective date of this 1999 Act, including judgments docketed under the provisions of ORS 46.488 (1997 Edition), that did not become a lien on real property by reason of failure of the judgment creditor to file a lien certificate with the court in the manner required by ORS 18.350 (4) to (9) (1997 Edition) shall automatically become a lien on real property to the extent described in ORS 18.350, as amended by section 1 of this 1999 Act, on January 1, 2000, and shall be considered in all respects as though the judgment had been docketed on January 1, 2000. [1999 c.195 §8(1),(2); 1999 c.195 §8a(1),(2)]

46.490 [Repealed by 1971 c.760 §11]

46.495 [1979 c.567 §4; repealed by 1981 c.883 §1]

46.500 [Amended by 1969 c.683 §4; repealed by 1971 c.760 §11]

46.505 [1969 c.683 §6; repealed by 1971 c.760 §11]

46.510 [Repealed by 1971 c.760 §11]

46.520 [Amended by 1969 c.683 §7; repealed by 1971 c.760 §11]

46.530 [Repealed by 1971 c.760 §11]

46.540 [Amended by 1969 c.683 §8; repealed by 1971 c.760 §11]

46.550 [Repealed by 1981 s.s. c.3 §141]

46.560 Where action to be commenced and tried. Except as provided in subsections (1) and (2) of this section, all actions in small claims department shall be commenced and tried in the county in which the defendants, or one of them, reside or may be found at the commencement of the action.

(1) When an action is founded on an alleged tort, it may be commenced either in the county where the cause of action arose or in the county where the defendants, or one of them, reside or may be found at the commencement of the action.

(2) When the defendant has contracted to perform an obligation in a particular county, action may be commenced in either that county or where the defendants, or one of them, reside or may be found at the commencement of the action. [1973 c.446 §2]

46.570 Fees. (1) In the small claims department of circuit court there shall be charged and collected in civil cases by the clerk of the court the following fees for the following purposes and services:

(a)(A) Plaintiff filing a claim, $26 when the amount or value claimed does not exceed $1,500, and $55 when the amount or value claimed exceeds $1,500; and

(B) Defendant demanding a hearing, $24 when the amount or value claimed by plaintiff does not exceed $1,500, and $50 when the amount or value claimed by plaintiff exceeds $1,500.

(b) Transcription of judgment from small claims department, $7.

(c) Transfer of cause to circuit court on counterclaim, $12.

(2) Except as otherwise provided in subsection (1) of this section, fees provided for in this section shall be collected in advance. A pleading or other document shall be filed by the clerk only if the required fee is paid or if a request for a fee waiver or deferral is granted by the court. Fees provided for in this section may not be refunded. [Formerly 46.221; 2003 c.737 §§44,45a,45c; 2005 c.702 §§49,50,51; 2007 c.129 §20; 2007 c.860 §7]

Note: Section 15 (15), chapter 860, Oregon Laws 2007, provides:

Sec. 15. (15) In addition to the fees provided for in ORS 46.570 (1), for the period commencing September 1, 2007, and ending June 30, 2009, in the small claims department of a circuit court the clerk of the court shall collect:

(a) A $1 surcharge when a plaintiff files a claim and the amount or value claimed does not exceed $1,500;

(b) A $2 surcharge when a plaintiff files a claim and the amount or value claimed exceeds $1,500;

(c) A $1 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff does not exceed $1,500; and

(d) A $2 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff exceeds $1,500. [2007 c.860 §15(15)]

46.610 [Amended by 1965 c.510 §20; 1971 c.633 §16; 1975 c.327 §7; 1979 c.568 §8; repealed by 1995 c.658 §127]

46.620 [Repealed by 1995 c.658 §127]

46.630 [Amended by 1957 c.726 §2; 1963 c.614 §2; 1969 c.96 §5; repealed by 1995 c.658 §127]

46.632 [1959 c.559 §5; 1961 c.628 §1; 1963 c.487 §1; 1965 c.171 §2; 1967 c.38 §2; 1969 c.365 §2; 1971 c.642 §2; repealed by 1995 c.658 §127]

46.635 [Amended by 1953 c.563 §7; 1955 c.562 §1; 1957 c.439 §1; repealed by 1959 c.559 §10]

46.638 [1959 c.552 §8; repealed by 1975 c.706 §10]

46.640 [Repealed by 1959 c.559 §10]

46.642 [1965 c.377 §1; 1969 c.269 §3; 1971 c.213 §3; repealed by 1975 c.706 §10]

46.648 [1959 c.552 §10; 1995 c.781 §36; repealed by 1995 c.658 §127]

46.650 [Repealed by 1961 c.724 §34]

46.655 [1961 c.724 §23; repealed by 1995 c.658 §127]

46.660 [Repealed by 1961 c.724 §34]

46.665 [1961 c.724 §24; 1981 s.s. c.1 §10; repealed by 1995 c.658 §127 and 1995 c.781 §51]

46.670 [Repealed by 1969 c.96 §6]

46.680 [Repealed by 1995 c.658 §127]

46.684 [1957 c.405 §5; repealed by 1961 c.724 §34]

46.686 [1957 c.405 §6; repealed by 1961 c.724 §34]

46.690 [Repealed by 1959 c.552 §16]

46.710 [Repealed by 1969 c.96 §6]

46.720 [Amended by 1953 c.306 §17; 1979 c.568 §9; repealed by 1981 s.s. c.3 §141]

46.725 [1975 c.327 §5; repealed by 1979 c.568 §17]

46.730 [Amended by 1955 c.664 §4; repealed by 1981 s.s. c.3 §141]

46.735 [1979 c.58 §4; repealed by 1985 c.540 §47]

46.740 [Amended by 1955 c.664 §5; 1963 c.427 §1; 1975 c.611 §21; repealed by 1985 c.540 §47]

46.750 [Amended by 1959 c.524 §1; 1963 c.474 §1; 1979 c.58 §2; repealed by 1985 c.540 §47]

46.760 [Repealed by 1985 c.540 §47]

46.770 [Amended by 1977 c.518 §1; repealed by 1981 s.s. c.3 §141]

46.780 [1965 c.203 §1; 1975 c.327 §8; 1979 c.568 §10; repealed by 1981 s.s. c.3 §141]

46.800 [1977 c.876 §10 (enacted in lieu of 156.610, 156.620, 156.640 and 156.650); 1981 s.s. c.3 §103; 1983 c.763 §43; 1985 c.565 §6; 1987 c.905 §4; repealed by 1995 c.658 §127]

46.810 [Formerly 157.081; repealed by 1995 c.658 §127]

CHAPTERS 47 TO 50

[Reserved for expansion]