Chapter 87

1967 REPLACEMENT PART

Statutory Liens

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LIENS OF MECHANICS AND MATERIALMEN

87.005 Definitions for ORS 87.005 to 87.075. As used in ORS 87.005 to 87.075:

(1) "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.

(2) "Construction" includes alteration, partial construction and all repairs done in and upon any improvement.

(3) "Agent of the owner" includes any contractor, subcontractor, architect, builder or other person having charge of the construction of any improvement.

[Amended by 1957 c.651 §1]

87.010 Liens of mechanics and materialmen; who is entitled to lien. (1) Any mechanic, artisan, machinist, builder, contractor, lumber merchant, laborer, teamster, drayman or other person performing labor upon, transporting or furnishing any material to be used in the construction of any improvement shall have a lien upon the improvement for the labor, transportation or material furnished at the instance of the owner of the improvement or his agent.

(2) Any person who shall, at the request of the owner of a lot, grade, fill in or otherwise improve the lot or the street adjoining the lot, shall have a lien upon the lot for such work done and materials furnished.

[Amended by 1957 c.651 §2]

87.015 Land and interests therein subject to lien; leaseholds. (1) The land upon which any improvement is constructed, together with such space as may be required for the convenient use and occupation thereof, 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, if, at the time the work or the furnishing of the materials was commenced, the land belonged to the person who caused the improvement to be constructed. If such person owned less than a fee-simple estate in such land, then only his interest therein shall be subject to the lien.

(2) In case such interest is a leasehold interest, and the holder thereof has forfeited his rights thereto, the purchaser of the improvement and leasehold term at any sale under the provisions of ORS 87.005 to 87.075, is deemed to be the assignee of such leasehold term, and may pay the lessor all arrears of rent or other money and costs due under the lease, unless the lessor has regained possession of the property, or obtained judgment for the possession thereof, prior to the commencement of the construction of the improvement, in which event the purchaser may only remove the improvement within 30 days after he purchases the same; and the owner of the land shall receive the rent due him, payable out of the proceeds of the sale, according to the terms of the lease, down to the time of such removal.

87.020 Notice to owner; list of materials furnished and statement of prices; notice of intent to foreclose. (1) Except as provided in subsection (5) of this section, any person furnishing any material or supplies to be used in the construction of an improvement shall, not later than 10 days after the date of delivery to a contractor or agent of the material or supplies for which a lien may be claimed under ORS 87.010, deliver in person, and evidence the delivery by receipt thereof, or mail by registered letter to the owner or reputed owner of the property on or about which the material or supplies are to be used, a notice in writing stating in substance that such person is delivering material and supplies for use thereon, with the name of the person ordering the same, and that a lien may be claimed for all such material and supplies delivered after a date which is 10 days before such notice was so delivered or mailed, and that payment by the owner or lender to the contractor does not remove the right of the person furnishing materials or supplies to claim a lien against the property unless the person giving the notice is in fact paid, and no further notice of this or any subsequent delivery to the owner is necessary. No materialmen's lien for material or supplies furnished to the contractor or the agent of any owner or reputed owner shall be enforced unless such notice is given.

(2) The sender of the notice, upon demand of the owner or reputed owner, shall furnish such owner or reputed owner a list of all material or supplies for which a lien may be claimed that have been furnished for such improvement.

(3) Every plaintiff or cross-complainant in a suit to foreclose a lien created under ORS 87.010 shall plead and prove that a notice

in writing stating that such person, or others, intends to commence suit to foreclose his, or their, lien, was mailed or delivered to the owner or reputed owner of the property upon which the lien is claimed at least seven days prior to the commencement of the suit to foreclose such lien.

(4) Where a list of material or supplies has been furnished as required by subsection (2) of this section, and notice of intention to commence suit to foreclose the lien has been given as provided in subsection (3) of this section, the sender of the notice of intention, upon demand of the owner or reputed owner, shall furnish such owner or reputed owner, within five days after demand, a statement of the prices charged or claimed for such material or supplies.

(5) A person who performs labor upon any improvement and in addition furnishes material used in the construction of that improvement need not give the notice required in subsection (1) of this section in order to acquire a lien under ORS 87.010.

[Amended by 1965 c.446 §1; 1967 c.600 §1; 1967 c.602 §1]

87.025 Priority of liens; right to sell improvements separately from land; notice to mortgagee; list of materials or supplies. (1) A lien created under ORS 87.010 upon any parcel of land shall be preferred to any lien, mortgage or other encumbrance which attached to the land after the improvement was commenced, or the materials were commenced to be furnished and placed upon or adjacent to the land; also to any lien, mortgage or other encumbrance which was unrecorded at the time the improvement was commenced, or the materials for the same were commenced to be furnished and placed upon or adjacent to the land.

(2) All liens created under ORS 87.010 upon any improvement shall be preferred to all prior liens, mortgages or other encumbrances upon the land upon which the improvement was constructed; and enforcing such lien, the improvement may be sold separately from the land; and, when so sold, the purchaser may remove the same, 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; but 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 on either the land or building unless the person furnishing such material or supplies. not later than 10 days after the date of the first delivery of material or supplies for which a lien may be claimed, delivers in person and evidences the delivery by receipt thereof, or mails by registered letter to the owner of record of such mortgage recorded at the time of the commencement of the delivery of such material or supplies, a notice in writing stating in substance that such person has commenced to deliver material and supplies for use thereon, with the name of the person ordering the same, and that a lien may be claimed for all material and supplies furnished by such person for use thereon and that payment by the owner or lender to the contractor does not remove the right of the person furnishing materials or supplies to claim a lien against the property unless the person giving the notice is in fact paid.

(4) The owner of record of a mortgage, 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 such materials or supplies including a statement of the amount due by reason of delivery thereof. Such list of materials or supplies shall be delivered to the owner of record of the mortgage, within 15 days of receipt of such demand, as evidenced by a receipt or a receipt of delivery of a registered letter containing such demand. Failure to furnish such list or the amount due by the person giving notice of delivery of such 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.

[Amended by 1965 c.446 §2; 1967 c.602 §2]

87.030 Effect of owner having knowledge of improvement; notice of nonresponsibility. Every improvement except an improvement made by a person other than the land-owner in drilling or boring for oil or

gas, constructed upon lands with the knowledge of the owner or person having or claiming any interest therein, shall be deemed constructed at the instance of such owner or person having or claiming any interest therein; and the interest owned or claimed shall be subject to any lien filed pursuant to the provisions of ORS 87.005 to 87.075, unless such owner or person having or claiming an interest therein shall, within three days after he obtains knowledge of the construction, give notice that he 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.

87.035 Filing of claim for lien. Every original contractor, within 60 days after the completion of his contract, and every mechanic, artisan, machinist, builder, lumber merchant, laborer, or other person, except the original contractor, claiming the benefit of ORS 87.005 to 87.075, within 45 days after the completion of the construction, or after he has ceased to labor thereon from any cause, or after he has ceased to furnish materials therefor, shall file for recording with the recording officer of the county in which the improvement, or some part thereof, is situated, a claim containing a true statement of his demand, after deducting all just credits and offsets, the name of the owner, or reputed owner, if known, the name of the person by whom he was employed or to whom he furnished the materials and a description of the property to be charged with the lien sufficient for identification, which claim shall be verified by the oath of himself or of some other person having knowledge of the facts.

[Amended by 1961 c.609 §1]

87.040 Definitions for ORS 87.045. As used in ORS 87.045:

(1) "Owner" means any person who has caused an improvement to be constructed, provided such person owns some interest in the land sought to be charged with the lien.

(2) "Contract purchaser" means any person who has entered into a contract for the purchase of any interest in the land sought to be charged with the lien upon which any improvement is constructed.

(3) "Mortgagee" means any person who has a valid subsisting mortgage upon any real property sought to be charged with the lien.

87.045 Completion date of improvement: substantial completion or abandonment. (1) As an alternative method for determining the completion date of an improvement, the improvement shall be conclusively deemed completed as to all labor performed and materials used prior to the date of the notice described in this section, when the improvement has been substantially completed, or when it has been abandoned. Cessation of work for 60 days or more shall constitute such abandonment, and either the owner, contract purchaser or mortgagee or his agent shall have posted and recorded a notice in writing stating in substance the following:

Notice hereby is given that the building or structure on the following described premises, (insert the legal description of the property) has been completed.

All persons claiming a lien upon the same under the mechanics' and materialmen's lien laws (ORS 87.005 to 87.075) hereby are notified to file for recording within the periods of time specified in ORS 87.035 with the recording officer of the county of (name of county) a claim of lien as required by ORS 87.035.

Dated _____, 19__

_____

Owner, Contract Purchaser or Mortgagee

P. O. Address: _____

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(2) The notice 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 same or his agent 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 such notice the date of the filing thereof and record and index the same in special books to be kept by him for such purpose.

(3) Anyone claiming a lien under ORS 87.010 on the premises described in the notice for labor performed and materials used prior to the date of the notice, shall file for record with the recording officer of the

county in which the improvement or some part thereof is situated a claim of lien in the form and with the information required by ORS 87.035, and within the periods of time specified in that section; said period of time to commence from the date of filing the notice with the recording officer; otherwise the claim of lien shall be of no force and effect.

(4) Nothing in this section is intended to divest, control or alter any rights, liens or priorities that vested prior to July 5, 1947, but the same may be perfected, enforced or foreclosed in the manner provided by the law in effect at that time.

87.050 Recording. The recording officer shall record the claim described in ORS 87.035 in a book kept for that purpose, which records shall be indexed as deeds and other conveyances are required by law to be indexed.

87.055 Duration of lien. No lien described in ORS 87.010 shall bind any improvement for a longer period than six months after the lien is filed unless suit is brought in a proper court within that time to enforce the lien, or if a credit is given, then six months after the expiration of such credit, but no lien shall be continued in force for a longer time than two years from the time the work is completed by any agreement to give credit.

87.060 Foreclosure. (1) Suits to enforce the liens created by ORS 87.010 shall be brought in the circuit courts, and the pleadings, process, practice and other proceedings shall be the same as in other cases.

(2) In case the proceeds of any sale under ORS 87.005 to 87.075 are insufficient to pay all lienholders claiming under such statutes, the liens of all persons other than the original contractor and subcontractors shall first be paid in full, or pro rata, if the proceeds are insufficient to pay them in full; and out of the remainder, if any, the subcontractors shall be paid in full, or pro rata, if the remainder is insufficient to pay them in full, and the remainder, if any, shall be paid to the original contractor. Each claimant is entitled to execution for any balance due him after such distribution, and such 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 such balance due.

(3) In all suits under ORS 87.005 to 87.075 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 also a reasonable amount as attorney's fees; but no costs, disbursements or attorney's fees shall be allowed to any plaintiff or cross-complainant who fails to comply with subsections (2), (3) and (4) of ORS 87.020.

(4) All suits to enforce any lien created by ORS 87.010 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 suits, all persons personally liable, and all lienholders whose claims have been filed for record under the provisions of 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 such proceedings. The proceedings upon the foreclosure of the liens created by ORS 87.010 shall, as nearly as possible, conform to the proceedings of a foreclosure of a mortgage lien upon real property.

87.065 Effect of payment of contractor or subcontractor. No payment by the owner of the improvement to any original or subcontractor, made before 45 days from the completion of the building, shall be valid for the purpose of defeating any lien created by ORS 87.010 in favor of any workman, laborer, lumber merchant or materialman, unless such payment has been distributed among the workmen, laborers, lumber merchant or materialman, or, if distributed in part only, then the same shall be valid only to the extent the same has been so distributed.

[Amended by 1961 c.609 §2]

87.070 Amount of recovery by contractor; respective rights of contractor and owner. Any contractor may recover, upon a lien filed by him, only the amount due to him according to the terms of his contract, after deducting all claims of other parties for work done and materials furnished for which a lien is created by ORS 87.010. Where a lien is filed under ORS 87.005 to 87.075 for work done or material furnished to any contractor, he shall defend any action brought thereupon at his own expense, and during the pendency of such action the owner may

withhold from the contractor the amount of money for which such lien is filed. In case of judgment against the owner or his property upon the lien, the owner may deduct from any amount due or to become due by him to the contractor the amount of such judgment and costs; and if the amount of the judgment and costs exceeds the amount due by him to the contractor, or if the owner has settled with the contractors in full, he may recover back from the contractor any amount so paid in excess of the contract price, and for which the contractor was originally the party liable.

87.075 Exemption of building materials from attachment by third persons. Whenever any mechanic, artisan, machinist, builder, lumber merchant, contractor, laborer or other person shall have furnished or procured any materials for use in the construction of any improvement, such material shall not be subject to attachment, execution or other legal process to enforce any debt due by the purchaser of such 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 such improvement.

POSSESSORY LIEN FOR LABOR AND MATERIAL EXPENDED ON CHATTEL

87.080 Possessory lien of makers and repairers of articles of personal property; sale on nonpayment of charges. (1) Any person who makes, alters, repairs or bestows labor on any article of personal property at the request of the owner or lawful possessor thereof, shall have a lien on the article for his just and reasonable charges for the labor he has performed and material he has furnished, and he may retain possession of the article until such charges are paid.

(2) If such charges are not paid within three months after the labor or materials have been performed or bestowed, the person having the lien may proceed to sell the article at public auction and apply the proceeds of the sale: First, to the payment of the expenses of the sale; second, to the discharge of the lien; and third, the balance, if any, to the county clerk of the county in which the sale is made, to be held by the county clerk in trust for the owner of the article.

(3) The sale shall be held in the county where the article was left to be altered or repaired, and before any sale is made, notice thereof shall be given to the debtor by registered letter directed to him at his last known place of residence, if his residence is known, and also by posting notice thereof in three public places in the county, one of which shall be at or near the front door of the county courthouse, for 10 days prior to the day of sale. The notice shall contain a particular description of the article to be sold, the name of the owner or reputed owner thereof, the amount due on the lien, and the time and place of the sale.

(4) The provisions of this section shall not interfere with any special agreement of the parties.

(5) This section does not apply to the cleaning, pressing, washing, altering, repairing, dyeing or storing of any garment, clothing, wearing apparel, rug, drapes or household article of a fair market value of less than $200.

[Amended by 1967 c.407 §3]

87.082 Cleaner's and launderer's lien. (1) As used in this section:

(a) "Article" means any garment, clothing, wearing apparel, rug, drapes or household article of a fair market value of less than $200.

(b) "Cleaner and launderer" means a person who cleans, presses, washes, alters, repairs, dyes or stores any article.

(2) A cleaner and launderer shall have a lien on an article for the reasonable or agreed charges for his services and may retain possession of the article until such charges are paid.

(3) If such charges have not been paid within six months after the date the article has been received for cleaning, pressing, washing, altering, repairing or dyeing, the cleaner and launderer having the lien may sell or otherwise dispose of the article.

(4) If such charges have not been paid within 12 months after the date they become payable for a stored article, the cleaner and launderer having the lien may sell or otherwise dispose of the article.

(5) The cleaner and launderer having the lien shall give notice to the owner of the time and place of the sale or of his intention to otherwise dispose of the article by certified or registered mail sent to the owner at the address given by him at the time the article was left with the cleaner and launderer at

least 30 days before the date of the sale or other disposition.

(6) If the address of the owner is unknown, the posting of a notice containing the time and place of the sale or of his intention to otherwise dispose of the article for 30 days before the sale or other disposition in a prominent place in the office where the article was delivered for cleaning, pressing, washing, altering, repairing, dyeing or storing.

(7) If the cleaner and launderer sells the article and receives the reasonable or agreed charges plus the cost of the required notice, the balance, if any, shall be paid to the county clerk of the county in which the sale is made, to be held by the county clerk in trust for the owner of the article.

(8) Any article which is in the hands of any person who cleans, presses, washes, repairs, alters, dyes or stores such articles on September 13, 1967, shall be subject to the provisions of this section except that the beginning of the time periods stated in this section shall be September 13, 1967. This section is not intended to apply to the possessory lien rights or duties of a person who transports or stores personal property as provided in ORS 87.500 to 87.515.

[1967 c.407 §§1, 2]

NONPOSSESSORY LIEN FOR LABOR AND MATERIAL EXPENDED ON CHATTEL

87.085 Nonpossessory lien for labor or material expended on a chattel. Every person who has expended labor, skill or materials, including automobile tires, upon any chattel, or has furnished storage for said chattel, at the request of the owner, reputed owner, authorized agent of the owner or lawful possessor thereof, shall have a lien upon the chattel for the contract price for such expenditure or, in the absence of a contract price, for the reasonable worth of the expenditure for a period of one year after such expenditure, notwithstanding the fact that the possession of the chattel has been surrendered to the owner or lawful possessor thereof.

87.090 Filing of notice of lien. In order to make the lien described in ORS 87.085 effectual the lien claimant shall, within 60 days from the date of delivery of such chattel to the owner thereof, or his agent, file a lien notice with the recording officer of the county in which the labor, skill and materials were expended. The notice shall state the name of the claimant, the name of the owner or reputed owner, a description of the chattel, sufficient for identification, upon which the claimant has expended labor, skill and material, the amount for which the lien is claimed and the date upon which such expenditure was completed. The notice shall be verified by the oath of the claimant, or by some one in his behalf, having personal knowledge of the facts, and may be substantially the following form:

——, Claimant, v. ——, Defendant.

Notice is hereby given that —— claims a lien upon —— (describe the property) for, and on account of labor, skill and materials expended upon the —— (property); that the name of the owner, or reputed owner, is ——; that the labor, skill and materials were expended upon the property between the ——day of ——, and the —— day of ——, and the rendition of the labor, skill and materials expended by the claimant above named was closed on the —— day of ——; that 60 days have not elapsed since that time; that the amount claimant demands for such labor, skill and materials is $——; that no part thereof has been paid except $——, and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of $——, in which amount he claims a lien upon said property.

State of Oregon, }
County of ——, } ss.

—— ——, Claimant.

—— ——.

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

Subscribed and sworn to before me this —— day of ——.

—— ——.

87.095 Index of lien notice. Upon presentation of the notice described in ORS 87.090 to the recording officer of any county, he shall file it in his office and index it in a book, to be kept by him for that purpose and called "index of liens upon chattels."

87.100 Persons regarded as owners and agents; priority of lien. Every person who is in possession of a chattel under an agreement for the purchase thereof, whether the title thereto is in him or his vendor, and every other person who is in lawful possession of a chattel shall, for the purposes of ORS 87.085 to 87.120, be deemed the owner thereof, or authorized agent of the owner. The lien of every person as provided in ORS 87.085 shall be superior to the rights of the person holding the title to the chattel or any lien thereon antedating the time of the expenditure provided in ORS 87.085 by such lien claimant. However, the lien filed under the provisions of ORS 87.090 shall only have such priority over a chattel mortgage duly recorded prior to the date of the expenditure claimed under the lien during the period the lien claimant retains possession of the chattel; and no lien for automobile tires shall have priority over such recorded chattel mortgage.

87.105 Discharge of lien. Any lien described in ORS 87.085 may be discharged by the lien claimant or his agent by an entry of satisfaction of the same under the "index of liens upon chattels."

87.110 Foreclosure generally; foreclosure by advertisement and sale. Liens described in ORS 87.085 may be foreclosed by a suit in the circuit or district court, or they may be foreclosed by advertisement and sale in the following manner:

(1) The person or claimant, desiring to foreclose the lien by advertisement and sale, shall deliver to the sheriff or any constable of the county in which the chattel is then situate, a copy of the notice of lien, certified by the recording officer of the county where it was filed, with the request indorsed thereon, signed by the claimant or his attorney, for the foreclosure of the lien.

(2) Thereupon the sheriff or constable shall take the property described in the notice into his possession, and for that purpose may forcibly, if necessary, enter any building, garage or other inclosure where the chattel may be, in the manner provided by law under a writ of replevin.

(3) The sheriff or constable shall, at the time of such taking, deliver to the person having possession of the chattel and mail to the legal owner of the chattel, as appears from the record in the office of the Secretary of State or Department of Motor Vehicles, and to any mortgagee or his assignee, if known, having a duly recorded unpaid chattel mortgage upon the chattel described in the lien, a copy of the lien notice, certified by the lien claimant or his attorneys, together with an itemized bill of particulars of the lien claimant's demand, also certified by the lien claimant or his attorneys.

(4) The person claiming to own or have an interest in the chattel may, within 14 days after such service upon him, deliver to the sheriff or constable a written and verified denial of any allegation contained in the lien notice or bill of particulars and shall also forthwith transmit by registered mail a copy of such written and verified denial to the lien claimant or his attorney of record in such proceedings.

(5) If such denial or any allegation of payment on the part of such person is so made and served upon the officer then in possession of the chattel, the officer shall retain the possession of the chattel, subject only to the order of the court having jurisdiction of the parties or the subject matter. in a suit to be prosecuted by the lien claimant, which suit shall be commenced within an additional period of 10 days from the time of service upon the officer of the denial or allegation of payment. If the suit is not commenced within 10 days, the sheriff or constable shall release the chattel from the levy and deliver it to the person having or claiming an interest therein. If the suit is commenced within 10 days, the sheriff or constable shall retain the chattel in his possession subject to the final decree of the court in the suit.

(6) If the legal owner or mortgagee, or his assignee or the person claiming to own the chattel or have an interest therein, or someone in his behalf, shall not, within 14 days after the taking and service upon the person in possession of the chattel and the legal owner, mortgagee or assignee, of a copy of the lien and bill of particulars, make a written denial of any allegation contained in the lien notice or bill of particulars, or allege full or partial payment of the sum demanded by the lien claimant, the sheriff or constable shall advertise the property for sale in the manner provided by law for the sale of personal property on execution, for a period of not less than 10 days, and after giving such notice of sale, shall sell the chattel at public auction to the highest bidder for cash, to satisfy the lien, accrued interest,

costs of seizure and storage and costs of filing and recording such lien and certified copies thereof.

(7) The proceeds derived from such sale shall be applied to the payment of costs and attorney's fees, as provided in this section, and the amount of the lien and accrued interest in the order named, and any proceeds remaining shall be paid to the owner of the chattel. When the lien claimant is represented by an attorney in such sheriff's or constable's foreclosure, and the proceeding reaches actual sale, the lien claimant shall be entitled to an item of $5 costs for the compensation of his attorney, and if the proceeding does not reach actual sale by reason of payment prior to actual sale, the sum of $2.50.

87.115 Redelivery bond. (1) If any legal owner or mortgagee or his assignee or any person claiming an interest in the chattel on which foreclosure by advertisement and sale is sought, after making the denial referred to in ORS 87.110 of any material allegation in the lien notice or bill of particulars or alleging payment in whole or in part of the lien claimed, executes and causes to be delivered to the sheriff or constable then having possession of the chattel a sufficient undertaking, equal to double the amount of the lien claimed but not less than $100 and executed by one or more sufficient sureties, to redeliver the chattel to such officer, in the same order and condition as it was when seized, upon demand of such officer having an execution issued upon any judgment, or in lieu thereof to pay to the lien claimant any judgment which the lien claimant, his personal representative or assigns may recover against the defendant in any foreclosure suit brought to foreclose the lien within the period prescribed in ORS 87.110, then the sheriff or constable shall deliver the chattel to such legal owner, mortgagee or his assignee or to the person executing the undertaking. The sheriff or constable shall pass upon the sufficiency of the undertaking and the sureties thereon.

(2) The court having jurisdiction in any foreclosure suit shall, at the time of rendering the judgment and decree of foreclosure, make and enter an alternative decree directing the principal and surety forthwith to surrender the chattel to the sheriff or constable or, in lieu thereof, to pay the lien claimant the amount of the judgment. The judgment shall thereupon be entered and docketed against the principal and surety with the same effect as if they were defendants.

(3) Any defendant may, in lieu of such undertaking, deposit with the sheriff or constable a sum of money equal to the amount of claimant's lien, together with an additional sum of $50, which moneys shall be held in lieu of such bond and, after execution is issued, may be used to pay claimant's judgment.

87.120 Costs and attorney fees in foreclosure by suit. In all cases where suit is brought to foreclose a lien described in ORS 87.085 the court shall, upon entering judgment for the plaintiff, allow as a part of the costs in the suit all moneys paid for the filing and recording of the lien and also a reasonable amount of attorney's fees.

87.122 Injury or removal of property subject to lien. (1) The person having a lien by virtue of ORS 87.085 may give notice of his lien to the person having possession of the chattel, the legal owner of the chattel as appears from the records of the Secretary of State or Department of Motor Vehicles, and to any mortgagee or other lien holder, by serving upon such person personally or by registered mail a copy of the lien notice, certified by the lien claimant or his attorney.

(2) Any person to whom notice of a lien has been given as provided in subsection (1) of this section, except a person holding a valid prior mortgage or lien, who dismantles, removes from this state or conceals any chattel upon which there is a valid lien without the written consent of the lienholder, shall be liable to the lienholder for damages proximately resulting therefrom, which sum may be recovered in an action at law without instituting foreclosure proceedings as provided in ORS 87.110. The court may allow reasonable attorney's fees to the prevailing party.

[1955 c.438 §§1, 2]

LIENS OF LOGGERS AND WOODWORKERS

87.125 Logger's lien. Every person performing labor upon or who shall assist in obtaining, securing, handling or transporting sawlogs, spars, piles, cordwood or other timbers, has a lien upon the same for the work

or labor done upon or in obtaining or securing the same, whether such work or labor was done at the instance of the owner or his agent. The cook in a logging or other camp, and any and all others who may assist in or about a logging or other camp maintained for obtaining or securing sawlogs, spars, piles, cordwood or other timber, shall be regarded, for the purpose of this section, as a person who assists in obtaining or securing sawlogs, spars, piles, cordwood or other timber.
[Amended by 1967 c.327 §1]

87.130 Woodworker's lien. Every person performing labor upon, or who shall assist in manufacturing sawlogs or other timber into lumber, slabwood, plywood or other wood products, has a lien upon such lumber, slabwood, plywood or other wood products, while the same remains at the yard wherein manufactured, or while stored at any other place by or for the benefit of the manufacturer, whether their work or labor was done at the instance of the owner of the lumber or his agent.
[Amended by 1961 c.519 §1]

87.135 Limitation on extent of lien of loggers and woodworkers; adoption of statute sections. Persons claiming liens under ORS 87.125 and 87.130 are only entitled to liens for services, work or labor performed during the six months immediately preceding the filing of the notice of claim of lien. ORS 87.625 and 87.635 to 87.675 apply to the liens described in ORS 87.125 and 87.130, and proceedings connected therewith.

87.140 Filing of notice of lien. Every person, within 30 days after the close of the rendition of the services, or after the close of the work or labor mentioned in ORS 87.125 and 87.130, claiming a lien thereunder, shall file for record with the recording officer of the county in which the sawlogs, spars, piles and other timber was cut, or in which the lumber was manufactured, a claim containing a statement of his demand, and the amount thereof, after deducting, as nearly as possible, all just credits and offsets, with the name of the person by whom he was employed, with a statement of the terms and conditions of his contract, if any. If there is no express contract, the claim shall state what the service, work or labor is reasonably worth. The claim shall also contain a description of the property to be charged with the lien, sufficient for identification with reasonable certainty. The claim shall be verified by the oath of the claimant or some other person for him, to the effect that the affiant believes the same to be true. The claim shall be substantially in the following form:

——, Claimant, v. ——, Defendant.

Notice is hereby given that —— claims a lien upon (describing property), being about —— more or less, which were (cut or manufactured) in —— County, State of Oregon, are marked thus ——, and are now lying in ——, for labor performed upon and assistance rendered in (cutting or manufacturing logs or lumber). That the name of the owner, or reputed owner, is ——; that —— employed said —— to perform such labor and render such assistance upon the following terms and conditions (state contract, if any, or reasonable value); that the contract has been faithfully performed and fully complied with on the part of ——, who performed labor upon and assisted in (cutting or manufacturing) for the period of ——; that said labor and assistance were so performed and rendered upon the property between the —— day of ——, and the —— day of ——, and the rendition of such services was closed on the —— day of ——, and 30 days have not elapsed since that time; that the amount of claimant's demand for the services is ——; that no part thereof has been paid (except ——), and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of ——, in which amount he claims a lien upon such property.

State of Oregon, }
County of ——, } ss.

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

Subscribed and sworn to before me this —— day of ——.

MINING LABOR AND MATERIAL LIEN

87.145 Mining labor and material lien. (1) Every person who performs labor upon or furnishes provisions, supplies or material for the working or development of any mine, lode, mining claim or deposit, in this section hereafter called mine, in search of or containing coal, metal or mineral of any kind; and any person who works upon or furnishes

materials for any shaft, tunnel, incline, adit, drift or other excavation, in this section hereafter called excavation, designed for the use, working or draining of any such mine; and any person who works or furnishes material for any road, tramway, trail, flume, ditch, pipe line, building, structure or superstructure, in this section hereafter called improvement, or in any boarding house, used for or in connection with the working or development of any such mine; and any person who performs labor or service in freighting or packing any material or supplies for the use, working or development of any such mine, or performs labor in transporting material or the product from such mine or improvement; and any person who furnishes any provisions, materials or supplies for the working or operation of any such improvement used or operated in connection with such mine, shall have a lien upon such mine or improvement to secure to him the payment for the work or labor done or material furnished. The lien shall attach in every case to such mine, improvement or boarding house owned or used in connection with the operation and development of the same.

(2) 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 boarding houses and improvements used or owned in connection therewith, shall for the purposes of ORS 87.145 to 87.165, be deemed one mine.

(3) When any mine, excavation, boarding house or improvement shall be worked by lessees or any person, other than the owner, acting under contract with the owner the lien provided for by this section shall be limited to the labor performed or the material furnished such lessees or such person during a period of not more than 40 days next preceding the time when the last of such labor was performed or such materials or supplies were furnished.

87.150 Filing of claim of lien. Any laborer or materialman claiming the lien described in ORS 87.145, shall, within 60 days after he has ceased to labor thereon from any cause, or after he has ceased to furnish materials therefor, file with the recording officer of the county in which the mine, lode, mining claim or deposit shall be situate, a claim containing a true statement of his demand, after deducting all just credits and offsets, with the name of the owner or reputed owner, if known, and also the name of the person by whom he was employed or to whom he furnished the materials, and also a description of the property to be charged with the lien sufficient for identification, which claim shall be verified by the oath of the lien claimant or some other person having a knowledge of the facts.

87.155 Recording. The recording officer shall record the claim described in ORS 87.150 in a book kept for that purpose, which shall be indexed as deeds and other conveyances are required by law to be indexed.

87.160 Priority and duration of lien. The lien provided for in ORS 87.145 shall be preferred to any prior lien, mortgage or other encumbrance, and no sale, transfer, mortgage or assignment of any mine, mining claim or other property subject to a lien under ORS 87.145 shall defeat such lien, except as provided in this section. No lien provided for in ORS 87.145 shall be continued in force, for longer than six months after the claim is filed, unless suit is brought in a proper court within that time to enforce the lien, or, if a credit is given, within six months after the expiration of the credit; but no lien shall be continued in force for a longer time than two years from the time the work is completed by any agreement to give credit.

87.165 Foreclosure. Suits to enforce the liens created by ORS 87.145 shall be brought in the circuit court. In case the proceeds of any sale under ORS 87.145 to 87.165 shall be sufficient to pay all lienholders under it, the liens of all persons shall be paid in full, or pro rata, if the proceeds be insufficient to pay them in full, and each claimant shall be entitled to execution for any balance due him after such distribution; such execution to 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. In all such suits 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 also a reasonable amount as attorney's fees. In all such suits all persons personally liable and all lienholders whose claims have been filed for record under the provisions

of ORS 87.150 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 such as are not made parties shall not be bound by the proceedings. The proceedings upon such foreclosure shall, as nearly as possible, conform to the proceedings of a foreclosure of a mortgage lien upon property.

LIEN OF FISHERMEN AND FISH WORKERS

87.170 Fishermen's and fish worker's lien on fishing equipment. Every person performing work or furnishing animals for work in the construction, maintenance, repair, or operation of any fishing boat, net, gillnet, setnet, seine, fishtrap, weir, fishwheel, scow, plunger or other craft, gear, device, net, machine or instrument used for the purpose of catching, holding or transporting fish from, upon or within the waters of this state, has a lien upon the same for such work, whether done at the instance of the owner or his agent. However, no property shall be subject to a lien for any greater sum than the market value of the fish taken by such property during the period for which the lien is claimed, and if the property is rented, the rental shall be first deducted from the value of the catch.

87.175 Fishermen's lien on fish. Every person who catches or transports, or who assists in the catching or transporting of any fish in this state, has a lien upon the fish, and upon the proceeds of the sale of the fish, for the price agreed to be paid for his labor, or for the price the labor would be reasonably worth, in case there was no express agreement fixing the price.

87.180 Priority of lien. The liens provided for in ORS 87.170 and 87.175 are prior to all other liens, and no sale, transfer, mortgage or assignment of any property subject to a lien under ORS 87.170 or 87.175 shall divert the lien thereon.

87.185 Limitation on extent of lien. Persons claiming liens under ORS 87.170 and 87.175 are only entitled to liens for services, work or labor performed during the six months next preceding the filing of the notice of claim of lien.

87.190 Filing notice of claim of lien. Every person, within 30 days after the close of the rendition of the services or after the close of the work or labor mentioned in ORS 87.170 and 87.175, claiming a lien thereunder shall file for record with the recording officer of the county in which any of the property subject to the lien is situated or found, or shall, within such 30 days, give the owner or holder of the property a notice of his claim, containing a statement of his demand, and the amount thereof, after deducting as nearly as possible all just credits and offsets, with the name of the person by whom he was employed, with a statement of the terms and conditions of his contract, if any; and if there is no express contract, the claim shall state what such service, work or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien sufficient for identification, with reasonable certainty, which claim must be verified by the oath of the lien claimant, his agent or attorney, to the effect that the affiant believes the same to be true, which claim shall be substantially in the following form:

—— ——, Claimant, v. —— ——, Defendant.

Notice is hereby given that —— claims a lien upon (describing property), which is now situate in the County of ——, State of Oregon, for work and labor performed (describe nature of services); that the name of the owner, or reputed owner, is ——; that —— employed —— to perform such work, labor and services upon the following conditions: (state contract, if any, or reasonable value); that the contract has been faithfully performed and fully complied with on the part of ——, who performed labor upon and assisted in —— for the period of ——; that the work, labor and services were so performed upon the property between the —— day of —— and the —— day of ——, and the rendition of the services was closed on the —— day of ——; and 30 days have not elapsed since that time; that the amount of claimant's demand for services is ——; that no part thereof has been paid, except ——, and that there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of $——, in which amount he claims a lien upon said property.

—— ——

State of Oregon, }ss.
County of ——, }

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

—— ——

Subscribed and sworn to before me this —— day of ——.

—— ——

87.195 Recording; notice. The recording officer shall record any claim filed under the provisions of ORS 87.190 in a book kept by him for that purpose, which record shall be indexed as deeds and other conveyances are required by law to be indexed. Any person, firm, or corporation to whom notice has been given of a claim of lien, as provided in ORS 87.190, shall be bound by such notice, as if it had been filed for record.

87.200 Duration of lien. No lien provided for in ORS 87.170 shall bind any property referred to in that section for a longer period than six months after the claim has been filed or a notice served, unless a suit is commenced in the circuit court within that time to enforce the same.

87.205 Foreclosure. The liens provided for in ORS 87.170 and 87.175 shall 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.

87.210 Subjecting whole of property to lien. Any person who brings a suit to enforce the lien provided for in ORS 87.170 or 87.175, or any person having such a lien who is made a party to any such suit, has the right to demand that the lien be enforced against the whole or any part of the property which is subject to the lien.

87.215 Joinder of parties plaintiff; consolidation of suits; costs. Any number of persons claiming liens under ORS 87.170 and 87.175 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 money paid for filing and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

87.220 Judgment and sale. In a suit to enforce a lien described in ORS 87.170 or 87.175 judgment shall be rendered in favor of each person having a lien for the amount due him, and the court shall order any property subject to the lien to be sold by the sheriff in the same manner that personal property is sold on execution, and the court shall apportion the proceeds of the sale to the payment of each judgment, pro rata, according to the amount of the judgment.

87.225 Sale prior to judgment. The county judge of any county, or the circuit judge may, in vacation, upon motion and by affidavit showing that property subject to a lien described in ORS 87.170 and 87.175 is liable to loss or damage, order such property sold by the sheriff as personal property is sold on execution before the judgment is rendered. The proceeds of such sale shall be paid into court to be applied as prescribed in ORS 87.220.

87.230 Injury or removal of property subject to lien. Any person who injures, impairs or renders difficult or impossible of identification, or removes or causes to be removed from this state, any of the property mentioned in ORS 87.170 upon which there is a lien, without the express consent of the lien holder, shall be liable to the lien holder for the damages to the amount secured by his lien, which sum may be recovered by an action against such person, without bringing the suit described in ORS 87.205; in such action the principal debtor shall be made a codefendant.

LIEN FOR LABOR AND MATERIALS FURNISHED TO RAILROAD CONTRACTOR

87.235 Lien for labor and materials furnished to contractor to railroad; priority. Any subcontractor, materialman or laborer who furnishes to a contractor to any railroad corporation any fuel, ties, materials, supplies or other articles or things, or who performs any labor for such contractor in conformity with the terms of any contract, express or implied, which the contractor has with any railroad corporation, shall have a lien upon all the property of the railroad corporation, upon compliance with ORS 87.240. However, the aggregate of all such liens shall not exceed the price agreed upon

in the original contract to be paid by the railroad corporation to the original contractor, nor shall the railroad corporation be liable for any greater sum than the amount then actually due from it to the original contractor. Such liens shall not take priority over existing liens.

87.240 Service of notice of lien and copy of contract. (1) The person performing labor described in ORS 87.235 shall cause a notice in writing to be served on the officer of the railroad corporation on whom the service of summons may be made, at the place where the principal office of the corporation is located. The notice may be in the following or any similar form:

To the —— (name of company):

You are hereby notified that I am (or have been) employed by —— as a laborer (or have furnished supplies, as the case may be,) on or for the ——, of the value of $——, which sum (said contractor or railroad company, as the case may be,) agreed to pay me therefor, and upon which there is now due to me the sum of $——, and that I shall hold all property of said railroad company to secure my pay.

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(2) If there is a contractor and subcontractor, materialman or laborer, a copy of the original contract shall be served with the notice and attached thereto, which notice shall be served at any time within 20 days after the completion of the subcontract or the labor.

87.245 Discharge of lien by deposit of money; recovery by lien claimant. The railroad corporation may at any time discharge itself from any liability for the liens described in ORS 87.235 by depositing, with the clerk of the circuit court of the county where its principal office is located, the moneys due by it to the original contractor, and publishing notice thereof in some newspaper of general circulation in the county for two weeks. Such deposit shall also operate to release the railroad corporation from the claim of the original contractor. Thereupon any person interested in such moneys may commence suit in the proper circuit court against the railroad corporation and the contractor, setting forth the nature of his claim and the amount due, as near as may be, and the fact that the contractor has failed to complete his contract, and that such moneys have been deposited in court. The clerk of the court shall thereupon issue a citation directed to all persons interested in the matter set forth in the petition and in such moneys, to be published in some newspaper published, printed and of general circulation in the county for four successive weeks, setting forth that such complaint has been filed and the nature thereof and that all persons interested may appear and file such claims as they may have, at a time stated in the citation. The court, on application of any person interested, shall cause all persons interested in such moneys to be brought in, and may render such decree against the railroad corporation as may be due to the plaintiff and such persons as interplead. The decree shall have the effect as other decrees against the original contractor and against the railroad corporation.

87.250 Suit on nonpayment of claim. If the money due the person giving notice as described in ORS 87.240 is not paid within 10 days after the money becomes due, and within 10 days after such notice is served, such person may commence suit therefor in any court having jurisdiction of the amount claimed to be due against the railroad corporation with which the original contract was made; or he may commence suit against the railroad corporation and original contractor jointly, and execution may issue thereon as in other cases.

87.255 Suit on failure of contractor to complete contract. Should the original contractor in any case fail to complete his contract, any person entitled to a lien described in ORS 87.235 may commence suit in the proper circuit court against the railroad corporation and the contractors, setting forth the nature of his claim and the amount due, as near as may be, and the fact that the contractor has failed to complete his contract. The clerk of the court shall thereupon issue a citation, directed to all persons interested in the matter set forth in the complaint, to be published in some newspaper printed in and of general circulation in the county for four successive weeks, setting forth that the suit has been commenced, and the nature thereof, and that all persons interested may appear and file such claim as they have at a time to be stated in the citation. The court, on the hearing of the suit and the claims of such persons as interplead,

may render such a decree against the railroad corporation as may be due to the plaintiff and such persons as interplead. The decree shall have the effect as other decrees against the original contractor and against the railroad corporation, and execution may issue upon the same to enforce the decree against either.

87.260 Attorney fee. Whenever any suit brought under ORS 87.235 to 87.255 is determined in favor of the plaintiff or petitioner, the court shall allow reasonable attorney's fees, to be taxed as costs.

LIEN FOR PREPARING LAND FOR CULTIVATION OR CONSTRUCTION

87.265 Lien for preparing land for cultivation or construction; priority. Every person who is employed to or contracts to survey, clear, ditch, dike, tile, level, check, border, excavate, grade, pave or otherwise prepare any land for irrigation, cultivation, construction or for any other purpose, or to demolish any buildings thereon, or who furnishes any materials, powder, explosive or equipment for use in connection with such work thereon, at the request of the owner, or with his knowledge or consent, shall have a lien on the land so worked upon for wages and charges for such work and for all materials, powder, explosive or equipment so furnished or used in connection therewith, unless such owner or person having or claiming an interest therein, other than those at whose instance the materials were furnished, shall within three days, after he obtains knowledge of such work, give notice that he will not be responsible for the same, by posting a notice in writing to that effect in some conspicuous place on the land or by mailing the notice by registered mail to the person performing such services. Such lien shall be preferred to every other lien or encumbrance of a subsequent date.

87.270 Filing statement of claim. Every person claiming a lien under ORS 87.265 shall file with the recording officer of the county where the land is situated, within 60 days after the completion of the contract for the work on the lands or the furnishing of materials therefor, or after the completion of any contract to perform the work or services thereon, a claim verified by oath, containing a statement for the unpaid wages and charges, together with off-sets and counter claims, due such claimant for such services or for such materials, so furnished or used; the substance of the contract and the name of the contractor, if any; a sufficient description of the land by metes and bounds or legal subdivisions; and a statement that the amount claimed is a true and bona fide existing debt.

87.275 Recording. The recording officer shall record the claim filed under ORS 87.270 in a book kept for that purpose, which records shall be indexed as the record of deeds and mortgages is kept and indexed.

87.280 Foreclosure; attorney fee. The lien described in ORS 87.265 may be foreclosed in the manner provided by law for the foreclosure of real property mortgages, but in all cases of foreclosure of the lien described in ORS 87.265 the court shall allow a reasonable attorney fee.

87.285 Duration of lien. Every lien described in ORS 87.265 shall cease to exist, unless a complaint to foreclose the lien is filed and a summons issued within six months from the date of the filing of the statement of claim.

87.286 Savings clause for rights under certain repealed statutes. Any right secured prior to August 2, 1951 under chapter 2, title 67 of O.C.L.A., and amendments thereto, which chapter was repealed by section 6, chapter 561, Oregon Laws 1951, shall continue in effect as provided in those repealed statutes.

FARM LABOR LIEN

87.290 Farm labor lien. (1) Any person who, by his own labor or that of his livestock or by using machinery, whether as owner or lessee thereof, or otherwise, performs for another any labor or service upon any farm land or orchard in tilling the same, or in pruning or spraying any orchard, or in sowing, harvesting, heading or threshing any grain or other crop, or in gathering any berries, fruit or other products of the soil, or in securing or housing any crop sown, raised, headed, harvested, threshed or gathered thereon or therefrom during the year in which the labor or service was performed, or in cooking for any person doing any of said work during such time, shall have a lien upon all such crops raised upon all or any of such land or in any such orchard for

the contract price for such labor or service, or for the reasonable value thereof if there is no contract. The lien shall attach to the crop from the date of the commencement of the labor or service.

(2) If the crop, or any part thereof, is sold prior to the filing of the lien, or possession delivered to an agent, broker, cooperative agency or other person to be sold or otherwise disposed of and its identity lost, or the crop commingled with other property so that it cannot be segregated and if the purchaser, agent, broker, cooperative agency or other person was notified of the filing of the lien by being served with a certified copy thereof, the lien shall attach to the proceeds of the sale of the crop or part thereof remaining in the possession of the purchaser, agent, broker, cooperative agency or other person at the time of the notice, and to any proceeds of the sale that may thereafter come into the possession of any of such persons, and the lien shall be as effective against such proceeds as against the crop itself.

87.295 Filing of claim of lien. Any person claiming a lien described in ORS 87.290 shall, within 30 days after the close of such labor or service, file for record with the recording officer of the county where the labor or service was performed, a claim in writing, verified by his oath, containing a true statement of his demand, after deducting all just credits and offsets, with the name of the owner or reputed owner of the property to be charged with the lien, if known, and also the name of the person by whom he was employed, and also a description of the property to be charged with the lien and the land upon which it was grown, sufficient for identification. Unless the person entitled to such lien files the statement within such time, he shall be deemed to have waived his right thereto.

87.300 Priority. The lien described in ORS 87.290 has priority over all other liens or encumbrances upon such crops, except that the interest or share of any lessor in any portion of the crops raised while the premises are leased in consideration of a share of the crops raised to the extent of not over 50 percent of such crops shall not be subject to such lien.

87.305 Recording. The recording officer shall record the claim of lien and index it in the same book and in the same manner as the recording and indexing of the liens described in ORS 87.010.

87.310 Foreclosure; costs; attorney fee. A lien created by ORS 87.290 shall be foreclosed and the lien and claim satisfied in the same manner and with like effect as the liens created by ORS 87.010. In all suits to foreclose the lien described by ORS 87.290 the court shall, upon entering judgment for the plaintiff, allow as part of the costs all moneys paid for the making, filing and recording of the lien and also reasonable attorney's fees.

87.315 Duration of lien. No lien created by ORS 87.290 shall bind any property for a longer period than 12 months after the claim of lien is filed, unless suit is commenced in a proper court within that time to enforce the lien.

87.320 Protection from theft and damage of property subject to lien. If the property covered by any lien created by ORS 87.290 is in danger of being stolen or damaged, the circuit court for the county in which the lien is filed, upon application of the holder of such lien, 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 his custody 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 his actual expenses of receivership from the proceeds of the sale of the property, but shall be allowed no remuneration for his services.

AGISTER'S LIEN

87.325 Agister's lien. Any person who depastures or feeds any horses, cattle, hogs, sheep or other livestock, or bestows any labor, care or attention upon the same at the request of the owner or lawful possessor thereof, shall have a lien upon such property for his just and reasonable charges for the labor, care and attention he has bestowed and the food he has furnished, and he may retain possession of the property until such charges are paid. The lien created by this section shall have preference over all other liens or encumbrances except a lien for herding animals. ORS 87.505 to 87.515 apply to the lien created by this section.

SHEEPHERDER'S LIEN

87.330 Sheepherder's lien. Any herder of sheep or any one to whom sheep are entrusted for their care or attention or any one who hires out to any owner of sheep either by the day, month or year, within the state who has entered into a contract for such care, attention or labor with the owner of the sheep, shall have a lien upon all such animals for the amount due, for a time not exceeding seven months preceding the date upon which the care, attention or labor was terminated. The lien shall not apply to animals proven to have been lost, strayed or stolen.

87.335 Filing of notice of claim; priority; discharge; foreclosure. Any person claiming a lien under ORS 87.330 shall, within 60 days after the close of the care, attention or labor, file with the recording officer of the county in which the animals are located, a notice of his intention to claim such lien. Such notice shall be filed in the records of liens. The notice shall state the name of the person claiming the lien, the name of the owner or reputed owner of the animals sought to be charged with the lien, a description of such animals sufficient for identification and the amount for which the lien is claimed. The notice of lien shall be verified by the oath of the person claiming the lien, to the effect that he believes the same to be true; and when the notice of lien is so filed, the lien shall have priority over all other encumbrances or liens upon such animals. The lien shall be discharged and foreclosed in the manner provided by ORS 87.360 and 87.365.

HORSESHOER'S LIEN

87.340 Horseshoer's lien; priority; construction of ORS 87.340 to 87.365. Every person who shoes any horse, mule, ox or other animal shall have a lien upon the animal shod for his reasonable charges for shoeing the same. The lien conferred by this section shall be superior to the lien of any chattel mortgage, bill of sale, conditional contract or other security upon such animal. ORS 87.340 to 87.365 shall be liberally construed.

87.345 Filing of notice of lien. Any person claiming a lien under ORS 87.340 shall, within 60 days after the shoeing of the animal, or in case he has shod such animal more than once, within 60 days after the last shoeing, file with the recording officer of the county in which such animal is, a notice of his intention to claim such lien. The notice shall state the name of the person claiming the lien, the name of the owner or reputed owner of the animal sought to be charged with the lien, a description of the animal sufficient for identification and the amount for which the lien is claimed. The notice shall be verified by the oath of the person claiming the lien, or his agent, to the effect that he believes the same to be true.

87.350 Recording. The recording officer shall, upon presentation to him of the notice described in ORS 87.345, file it in his office and index it in a book to be kept by him for that purpose called, "Index of Horseshoers' Liens."

87.355 Filing of successive liens on same animal; limitation on extent of lien. Any person may file successive liens upon the same animal, or different charges for shoeing the same, and he may include in any one claim of lien his charges for any number of times of shoeing such animal, but no lien shall be had for any shoeing done more than six months prior to the filing of the notice of lien.

87.360 Discharge. Any lien claimed under ORS 87.340 may be discharged by the lien claimant or his agent by an entry of satisfaction of the same in the index of horseshoers' liens.

87.365 Foreclosure. Liens created under ORS 87.340 may be foreclosed by suit, or they may be foreclosed by advertisement and sale in the following manner. The lien claimant shall deliver to the sheriff or any constable of the county in which such animal is situated a certified copy of the notice of lien, with the request indorsed thereon for the foreclosure of such lien; thereupon the sheriff or constable shall take the animal described in such notice of lien into his possession and hold the same, and shall advertise the same for sale to satisfy the lien once a week for two successive weeks in a daily or weekly newspaper published in the county, and after giving such notice shall sell the animal at public auction to the highest bidder for cash to satisfy the lien, accrued interest and costs of taking possession, and holding and selling the animal,

delivering the overplus of money arising upon such sale, if any, to the owner of the animal, or his authorized agent.

NURSERYMAN'S LIEN

87.370 Nurseryman's lien; nursery stock defined. For the purposes of ORS 87.370 to 87.395, "nursery stock" means fruit trees, fruit-tree stock, nut trees, grape vines, 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.

87.375 Right to lien; priorities; notice of nonresponsibility. Any person who furnishes nursery stock of the value or agreed price of $25 or more, for planting on any land, at the request of the owner, or with his knowledge, shall have a lien on the land upon which such nursery stock is set out and planted, which lien shall be preferred to every other lien or encumbrance of a subsequent date, unless such owner or person having or claiming an interest therein within three days after obtaining knowledge of such planting and setting out of nursery stock, gives notice that he will not be responsible for the same by mail to the person furnishing the nursery stock.

87.380 Filing of claim of lien. Every person claiming a lien under ORS 87.375 shall file with the recording officer of the county where the land is situated, within six months after furnishing the nursery stock, a statement verified by his oath containing a bill for the nursery stock, the substance of the contract, the name of the contractor, a description by metes and bounds of the land for which the stock was furnished, the total amount of the demand of such claimant after deducting all setoffs and counterclaims and a statement that the amount claimed is a true and bona fide existing debt.

87.385 Recording. The recording officer shall record the claims in a book kept for the purpose, which record shall be indexed for that purpose as the record of deeds and mortgages is kept and indexed.

87.390 Foreclosure; attorney fees. The lien described in ORS 87.375 may be foreclosed in the manner provided by law for the foreclosure of real property mortgages, but in all cases of foreclosure of the lien described in ORS 87.375 the court shall allow a reasonable attorney's fee.

87.395 Duration of lien. Every lien described in ORS 87.375 shall cease to exist unless a complaint to foreclose it is filed and a summons issued within six months from the date of the filing of the claim of lien.

CROP LIEN

87.400 Crop lien for furnishing seed, fertilizer or weed eradicator. (1) Any person who furnishes seed, commercial fertilizer or chemical weed eradicator to another to be sown or planted or applied on the lands owned, contracted to be purchased, used or rented by him, shall, upon filing the statement provided for in ORS 87.410, have a lien upon all the crop produced from such seed or the first crop benefited by such commercial fertilizer or chemical weed eradicator, to secure the payment of the purchase price thereof. However, before any person has such lien upon the entire crop grown from seed sold or benefited by such commercial fertilizer or chemical weed eradicator any tenant farmer, such person shall notify and obtain the written consent of the owner of the premises, and if such consent is not obtained, the lien shall apply only to the tenant farmer's interest therein.

(2) If the crop, or any part thereof, is sold subsequent to the filing of the lien, or possession delivered to an agent, broker, cooperative agency or other person to be sold or otherwise disposed of and its identity lost, or the crop commingled with other property so that it cannot be segregated, and if the purchaser, agent, broker, cooperative agency or other person is notified of the filing of the lien by being served with a certified copy thereof, the lien shall attach to the proceeds of the sale of the crop or part thereof remaining in the possession of the purchaser, agent, broker, cooperative agency or other person at the time of the notice, and to any proceeds of such sale that may thereafter come into the possession of any of such persons and the lien shall be as effective against such proceeds as against the crop itself.

[Amended by 1959 c.340 §1]

87.405 Priority. The lien described in ORS 87.400 shall have priority over all other liens and encumbrances except liens described in ORS 87.290.

87.410 Filing of statement of lien. Any person entitled to a lien under ORS 87.400 shall, within 30 days after the seed is sown or planted or such commercial fertilizer or chemical weed eradicator is applied, file with the recording officer of the county in which the seed is sown or planted or such commercial fertilizer or chemical weed eradicator is applied, a statement in writing, verified by oath, showing the kind and quantity of seed, commercial fertilizer or chemical weed eradicator, its value, the amount due thereon after deducting all charges, credits and offsets, the name of the person to whom furnished and a description of the land upon which the same has been planted or sown or applied. Unless the person entitled to the lien files such statement within such time he waives his right thereto.
[Amended by 1959 c.340 §2]

87.415 Recording. The recording officer shall record the claim of lien and index it in the book and manner described in ORS 87.095.

87.420 Foreclosure. The lien described in ORS 87.400 shall be foreclosed as provided in ORS 87.110 and 87.115, and the lien and claim satisfied as therein provided. In all suits to foreclose the lien described in ORS 87.400 the court shall, upon entering judgment for the plaintiff, allow as part of the costs all moneys paid for the making, filing and recording of the lien and also reasonable attorney's fees.

87.425 Duration of lien. No lien described in ORS 87.400 shall bind any property for a longer period than 12 months after it is filed, unless suit is commenced in a proper court within the time to enforce the lien.

ATTORNEY'S LIEN

87.495 Attorney's lien. An attorney has a lien for his compensation, whether specially agreed upon or implied, as provided in this section:

(1) Upon all papers, personal property and money of his client in his possession for services rendered to such client, and he may retain such papers until the lien, and claim based thereon, is satisfied, and may apply such money to the satisfaction of the lien and claim.

(2) Upon action, suits and proceedings after the commencement thereof, and judgments, decrees, orders and awards entered therein in his client's favor and the proceeds thereof in whosesoever hands they are, to the extent of the fees and compensation specially agreed upon with his client, if there is such an agreement, and if not, for the reasonable value of his services. Such lien shall not be affected by any settlement between the parties to the action, suit or proceeding before or after judgment, decree, order or award. The lien shall be superior to all other liens except tax liens, and no party to the action, suit or proceeding, or other person, shall have the right to satisfy such lien or any judgment, decree, order or award entered therein until the lien, and claim of the attorney for his fees based thereon, is satisfied in full. However a judgment debtor may pay the full amount of a judgment or decree into court and the clerk of the court shall thereupon fully satisfy the judgment or decree on the record and the judgment debtor shall thereby be released from any further claims thereunder. Attorneys shall have the same right and power over such actions, suits, proceedings, judgments, decrees, orders and awards to enforce their liens as their clients have for the amount due thereon to them. If more than one attorney appears of record for a litigant, the satisfaction of the lien provided for in this section by any one of the attorneys is conclusive evidence that the lien is fully satisfied.

POSSESSORY LIEN OF PERSON WHO TRANSPORTS OR STORES PERSONAL PROPERTY

87.500 Possessory lien of person who transports or stores personal property; priority. Any person who is a common carrier, or who, at the request of the owner or lawful possessor of any personal property, transports the same from one place to another, and any person who stores any grain, merchandise or personal property at the request of the owner or lawful possessor thereof, shall have a lien upon such property for his just and reasonable charges for such transportation or storage, and he may retain possession of the property until such charges are paid. The lien created by this section shall have preference over all other liens or encumbrances except a lien for herding animals.

87.505 Filing of notice of lien. Any person claiming a lien under the provisions of ORS 87.325 or 87.500 shall, within 30 days after accrual of the claim upon which the lien is founded, file with the recording officer of the county in which the property upon which the lien is claimed is located, a notice of his intention to claim such lien The notice shall state the name of the person claiming the lien, the name of the owner or reputed owner of the property sought to be charged with the lien, a description of such property sufficient for identification and the amount for which the lien is claimed. Such notice must be verified by the oath of the person claiming the lien to the effect that he believes the same to be true. The notice of lien shall be filed in the records of liens of the county in which such property is located.

87.510 Limitation on extent of lien; special agreements; discharge. No right of lien claimed under ORS 87.325 or 87.500 shall cover a period exceeding five months from the date the claim upon which such lien is based first began to accrue. The lien described in such sections does not apply to animals proven to be lost, strayed or stolen. Any such lien may be discharged by the lien claimant, or his agent, by an entry of satisfaction of the lien in the record of liens of the county in which it is filed. The provisions of ORS 87.325 and 87.500 to 87.515 shall not interfere with any special agreement of the parties.

87.515 Foreclosure; disposition of proceeds of sale; notice; liability of warehouseman for improper sale. (1) Liens described in ORS 87.325 and 87.500 may be foreclosed by suit, or they may be foreclosed by the following proceedings: If the reasonable value of the property does not exceed $100, the person having the lien may proceed to sell the property at public auction and apply the proceeds of the sale: First, to the payment of the expenses of the sale; second, to the discharge of the lien; and third, the balance, if any, to the county clerk of the county in which the sale is made, to be held by the county clerk in trust for the owner of the property. The sale shall be held in the county where the property was stored or transported, and before any sale is made, notice thereof shall be given to the owner or person entitled to possession by certified mail directed to him at his last-known place of residence, if his residence is known, and also by posting notice thereof in two public places in the county, one of which shall be at or near the front door of the county court house, for 10 days prior to the day of sale. The notice shall contain a particular description of the property to be sold, the name of the owner or reputed owner, the amount due on the lien, and the time and place of the sale; or they may be foreclosed by advertisement and sale in the following manner. The person desiring to foreclose shall deliver to the sheriff or any constable of the county in which the property upon which the lien is claimed is located, a certified copy of the notice of lien. with a request indorsed thereon for the foreclosure of such lien. Thereupon the sheriff or constable shall take the property described in the notice into his possession and hold it, and shall advertise it for sale to satisfy the lien, once a week for two successive weeks in a daily or weekly newspaper published in such county, and after such advertisement shall sell the property, or such part thereof as may be necessary, at public auction to the highest bidder for cash, to satisfy the lien, accrued interest and the cost of taking possession, holding and selling the property, delivering the overplus of money, if any, to the owner of the property or his authorized agent.

(2) This section is not intended to authorize any warehouseman to sell more of any wool, wheat, oats or other grain than is sufficient to pay charges due the warehouseman on such grain; and if any warehouseman sells, loans or disposes of in any manner, without consent of the owner thereof, except as provided in this section, any such grain, he shall, for each such offense, forfeit to the owner of such grain a sum equal to the market value thereof, and 50 percent of the market value in addition as a penalty, such value and penalty to be recovered by an action at law. The market value is the price such grain has at the time the owner thereof determines to sell the same.

[Amended by 1957 c.420 §1; 1959 c.521 §1]

INNKEEPER'S LIEN

87.525 Innkeeper's lien. The keeper of any inn or hotel shall have a lien on the

baggage, clothing, jewelry and other property brought in to such inn or hotel belonging to or under control of his guest or boarder for the proper charges due the keeper from the guest or boarder for accommodation, board and lodging, whether on a daily, weekly or monthly payment basis and for any extras furnished at the request of the guest or boarder by the keeper and for all money paid for or advanced to the guest or boarder by the keeper. The keeper may retain such property until the amount of such charges, extras and moneys advanced is paid and such property is exempt from attachment or execution until the innkeeper's lien and the cost of satisfying it are satisfied.

87.530 Foreclosure. (1) The innkeeper or hotelkeeper shall retain the baggage, clothing, jewelry and other property upon which he has a lien for a period of 60 days, at the expiration of which time, if such lien is not satisfied, he may proceed to sell such property, or a part thereof, at private sale either 10 days after one publication of notice of the time and place of sale in a newspaper of general circulation in the county where the inn or hotel is situated or 10 days after posting notice of the time and place of sale in three public places in the city where the inn or hotel is situated, and also by mailing a copy of such notice addressed to the guest or boarder at the place of residence registered by him in the register of the inn or hotel.

(2) After satisfying the lien and any expenses of selling the property that may accrue, any residue remaining shall, on demand within six months, be paid to the guest or boarder, and if not so demanded within six months from the date of the sale the residue shall be deposited by the innkeeper or hotelkeeper with the treasurer of the county in which the inn or hotel is situated, together with a statement of the innkeeper's claim and the cost of enforcing the same, a copy of the published or posted notice, and of the amounts received for the goods sold at said sale. The county treasurer shall credit the residue to the general revenue fund of the county, subject to a right of the guest or boarder, or his representative, to reclaim at any time within three years of the date of deposit with the treasurer. If the residue is not demanded and claimed within such period it shall become the property of the county.

(3) The notice provided for in subsection (1) of this section shall be substantially in the following form:

I, (name of the owner, manager or other proper person) hereby claim a lien upon the baggage, clothing and other property brought into (name of hotel or inn) by (name of the owner or other person who brought the property into the hotel or inn) on the (date), and more than 60 days having elapsed since the expiration of the time accommodations, board or lodging were furnished, and the amount of $——— is now due on account of the aforesaid accommodations, board and extras not having been paid by the above-named person, and the lien of the undersigned not having been satisfied; now, therefore, notice is given that the undersigned will proceed to sell the clothing, baggage and other property (no other description is necessary) of the above-named person at private sale at (name of hotel or inn or other place where sale shall take place) on the ——— day of ———, 19—.

Dated this ——— day of ———, 19—.

Signed ———

(Owner, manager or other proper person.)

LANDLORD'S LIEN

87.535 Landlord's lien; priority. Except as provided in ORS 87.525 and 87.530, every landlord shall have a lien upon all personal property, except wearing apparel as defined in subsection (1) of ORS 23.160, 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 all such property during the existence of the lien. The lien shall have priority over all other liens and claims except taxes, recorded chattel mortgages, claims of merchants in ordinary course of business for the balance of the purchase price and conditional sales contracts, existing before the property sought to be subjected to the lien is brought upon the leased premises. No writing, recording nor filing shall be necessary to create such lien. The selling, removing or encumbering of such property shall not defeat this lien except a sale or encumbrance in favor of a bona fide purchaser or a bona fide lien holder who acquires his rights to or interest in such property after the removal of same from the leased premises.

[Amended by 1957 c.684 §1]

87.540 Foreclosure. If the rent or advances referred to in ORS 87.535 are not paid within 20 days after the same accrue or such advances are made, or if the tenant or occupant attempts to remove the property from the premises while there are such unpaid rents or advances, the landlord may in either case immediately or at any time thereafter take such property into his possession and shall at any time after 90 days of such taking, proceed to sell the property or any portion thereof at public auction after giving 10 days' notice of the time and place of the sale to the sheriff of the county and by publication in a newspaper of general circulation in the county where the leased premises are situated and mailing to the tenant at his last-known place of residence a copy of the notice. Upon such sale, the proceeds shall be applied to the expense thereof, to satisfy the lien and the residue, if any, paid to the treasurer of the county for the benefit of the tenant or whomsoever may be entitled thereto. If the residue is not claimed within three years after being deposited with the county treasurer, it shall revert to the general revenue fund of the county.
[Amended by 1957 c.684 §2]

87.545 Repossession where property removed without landlord's consent. In the event any property subject to the lien described in ORS 87.535 is removed from the leased premises without the consent of the landlord, the landlord may take the same wherever found, except when it is in the possession of a bona fide purchaser or a bona fide encumbrancer, and may then proceed to the sale as provided in ORS 87.540, and the period of time for such sale shall be tolled during the period of such unlawful removal.

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

87.551 Posting copy of law. Every landlord entitled to a lien under the provisions of ORS 87.535 shall keep a copy of ORS 87.535 to 87.550 posted in a conspicuous place on the leased premises.
[1957 c.684 §4 (enacted in lieu of ORS 87.550)]

HOSPITAL LIEN

87.555 Hospital lien. (1) Except as otherwise provided by law, whenever any person receives hospitalization on account of any injury, and he, or his personal representative after his death, claims damages from the person causing the injury, the hospital shall have a lien upon any sum awarded the injured person or his personal representative by judgment or obtained by a settlement or compromise to the extent of the amount due the hospital for the reasonable value of such hospitalization rendered prior to the date of judgment, settlement or compromise. However, no such lien shall be valid against anyone coming under the Workmen's Compensation Act.

(2) When the person receiving hospitalization has a contract providing for indemnity or compensation for the sum incurred for such hospitalization, the hospital shall have a lien upon the amount payable under such contract. The party obligated to make reimbursement under the contract may pay the sum due thereunder directly to the hospital, and such payment shall constitute a full release of the party making the payment under such contract to the amount of the payment.

87.560 Limitations on extent of lien. No lien under ORS 87.555 shall be allowed for hospitalization rendered after a settlement has been effected by or on behalf of the party causing the injury. No lien shall be allowed against any sum for necessary attorney fees, costs and expenses incurred by the injured party in securing a settlement, compromise or judgment.

87.565 Notice of lien required. In order to perfect the lien described in ORS 87.555, the hospital or the owner or operator thereof shall, not later than 15 days after the discharge of the injured person from the hospital, file a notice of lien substantially in the form prescribed in ORS 87.570, containing an itemized statement of the amount claimed, with the recording officer of the county wherein such hospital is located and also with the recording officer of the county wherein the injury was suffered, and shall, prior to the date of judgment, settlement or compromise, serve a certified copy of the notice of lien by registered mail upon the person alleged to be responsible for causing the injury and from whom damages are claimed, and upon his insurance carrier which has insured against such liability, if such insurance carrier is known.

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 services in hospitalization 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 or judgment from —— —— alleged to have caused said injuries and any other person liable for the injury or obligated to compensate the injured person on account of said injuries. The hospitalization was rendered to the injured person between the —— day of ——— and the —— day of ———;

ITEMIZED STATEMENT

——— ——— ——— ——— ———
——— ——— ——— ——— ———
——— ——— ——— ——— ———
——— ——— ——— ——— ———

that 15 days have not elapsed since that time; that the claimant's demands for said care and service is in the sum of $——— and that no part thereof has been paid, except $———, and that there is now due and owing and remaining unpaid therof, after deducting all credits and offsets the sum of $———, in which amount lien is hereby claimed.

—— ———, Claimant.

State of Oregon, }
County of ——— } ss.

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 ——— in the year of our Lord ——— ——— ———.

—— ———, Notary Public.

87.575 Hospital lien docket. Each recording officer shall maintain a hospital lien docket in which, upon the filing of a notice of lien, he shall enter the name of the injured person, the approximate date of the injury, the name and address of the hospital filing the notice and the amount claimed; and he shall make an index thereto in the names of the injured persons.

87.580 Payment to injured person after notice of lien; liability to hospital. Any person or insurer who, after the receipt of a certified copy of notice of lien in compliance with ORS 87.565, shall make any payment to the injured person, his heirs, personal representatives or the attorney for any of them, as compensation for the injury suffered, without paying the hospital the reasonable value of hospitalization rendered such injured person and claimed in its notice of lien or so much thereof as can be satisfied out of the moneys due under any judgment, settlement or compromise, after paying the attorney fees, costs and expenses incurred in connection therewith and any prior liens, shall, for a period of 180 days after the date of such payment, be liable to the hospital for the amount which the hospital was entitled to receive. The hospital shall, within such period, have a cause of action against the person making any such payment, which may be prosecuted in any county wherein notice of lien has been filed.

87.585 Foreclosure. The lien described in ORS 87.555 may be foreclosed by a suit in the district or circuit court. In any suit brought pursuant to the provisions of ORS 87.580 or this section, upon entering a decree 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's fees.

VETERINARY HOSPITAL LIEN

87.590 Veterinary hospital lien. (1) Any veterinary hospital which, at the request of the owner or lawful possessor of any animal, bestows any care, food or service upon the same shall have a lien upon the animal for the just and reasonable charges therefor, and may retain the animal until the charges are paid. This lien shall have preference over all other liens or encumbrances.

(2) If such charges are not paid within 30 days after the owner or lawful possessor of an animal leaves the animal in the veterinary hospital for the purpose of board and keep only, or within 30 days after the owner or lawful possessor of such animal, left at said veterinary hospital for medical or surgical services, is notified that the requested services have been performed and the animal is ready for release, the person having such lien may proceed to sell the animal at public auction.

(3) The proceeds of such sale shall be applied first to the payment of the expenses of the sale, which includes the food and keep of the animal during foreclosure, second, to the discharge of the lien, and third, the balance, if any, to the county clerk of the county in which the sale is made, to be held by him in trust for the owner of the animal.

(4) The sale shall be held in the county where the animal was left for care, food or service, and before such sale is made notice thereof shall be given to the debtor by registered mail addressed to him at his last-known place of residence, and also by posting notice thereof in three public places in the county, one of which shall be at or near the front door of the county courthouse for 10 days prior to the date of sale. The notice shall contain a particular description of the animal to be sold, the name of the owner or reputed owner thereof, the amount due on such lien and the time and place of sale.

STABLEKEEPER'S LIEN

87.595 Stablekeeper's lien. Stablekeepers shall have a lien on animals, carriages, wagons, sleighs and harness left with them for board, storage, sale or exchange for the amount of the bill due the stablekeeper for the board and storage, and may, without process of law, retain the same until such indebtedness is discharged.

87.600 Foreclosure. All property retained by any stablekeeper pursuant to ORS 87.595 may, after the expiration of 30 days from the date of such retention, be sold at public auction, by first giving notice of such sale for a period of two weeks in some newspaper of general circulation published in the city in which such stable is situated, and also by five days' notice posted in five of the most public places in the city or place where the sale is to be had; provided, if no newspaper is published in such city, the notice shall be given in some newspaper of general circulation published within the county. The proceeds of the sale shall be applied, first, to the payment of the lien and the expense of the sale, and the balance, if any, to the owner of the property or his authorized representative.

LIEN FOR STUD OR ARTIFICIAL INSEMINATION SERVICES

87.605 Lien for stud or artificial insemination services. The owner of any stallion or jack which is kept and licensed for the breeding of mares not owned by the owner of the stallion or jack, and any person who artificially inseminates any female domestic animal, shall have a lien upon any female animal to which such male is let or which has been artificially inseminated, and her offspring, for the sum contracted therefor, which lien shall attach at the time of service of the male or of artificial insemination, and shall not be lost by reason of any sale, exchange or removal from the county, or other disposition of the female animal or her offspring without consent of the person holding the lien.

[Amended by 1955 c.136 §1]

87.610 Foreclosure. At any time within 20 months after his right of action accrues, the holder of the lien described in ORS 87.605 may file with any justice of the peace in the county, a written statement, duly verified, setting forth the amount of his claim, his cause of action, and a description of the animal upon which he has a lien, and the justice shall thereupon issue summons as in other cases and embody therein a description of the animal and an order to the constable to take the animal and her offspring, if any, and hold them subject to the order of the court. If upon trial, judgment is rendered for the plaintiff, the court shall order a sale of the animals as on execution, to pay the judgment.

TIMBERLAND OWNER'S LIEN

87.615 Timberland owner's lien. Any person who permits another to go upon his timberland and cut sawlogs, spars, piles, cordwood or other timber has a lien upon such timber for the price agreed to be paid for such privilege, or for the price such privilege or the stumpage thereon would be reasonably worth, in case there is no express agreement fixing the price.

87.620 Limitation on extent of lien. Only those sawlogs, spars, piles and other timber cut during the six months next preceding the filing of the claim of lien are subject to the lien described in ORS 87.615.

87.625 Priority of liens; effect of payment by owner to contractor or subcontractor. The liens described in ORS 87.125, 87.130 and 87.615 are prior to all other liens, and no sale, transfer, mortgage or assignment of timber or lumber shall divert the lien thereon. No payment by the owner of

such timber or lumber to any original or subcontractor, made before 30 days from the completion of the work by the lien claimant, shall discharge any such lien unless such payment has been distributed among the persons assisting in obtaining, securing or manufacturing such timber and lumber, or if distributed in part only, then the payment shall discharge the liens only to the extent that the payment has been so distributed.

87.630 Filing of claim of lien. Every person claiming a lien under ORS 87.615 shall file for record with the recording officer of the county in which timber was cut a claim in substance the same as provided in ORS 87.140, and verified as therein provided.

87.635 Recording. The recording officer shall record any claim filed under the provisions of ORS 87.140 or 87.630 in a book kept by him for that purpose, which record shall be indexed as deeds and other conveyances are required by law to be indexed.

87.640 Discharge of lien on filing of bond. If at any time the owner of timber or lumber subject to the lien described in ORS 87.125, 87.130 or 87.615, or any person in his behalf, files with the recording officer of the county wherein the claim of lien is recorded a bond in a sum double the amount claimed in the lien, executed by a surety company licensed to do business in Oregon, or by two freeholders of the State of Oregon, having the qualifications of bail upon arrest, to be approved by the circuit judge of the district in which the lien is filed, or in the event of his absence from the county in which the lien is filed, by the county judge of that county, running to the lien claimant and conditioned for the payment of all damages, costs, charges and disbursements that may be recovered by the claimant against the owner or that may be found to be a lien upon the property described in the lien claim, the recording officer shall issue to the owner a certificate stating that the bond is substituted for the property and that the lien on the property is discharged, and a marginal entry of the discharge and bond shall be made in the lien docket containing the original record of claim of lien. If the lien claimant establishes the validity of his lien by a suit to enforce the same, he shall be entitled to judgment or decree against the sureties upon the bond. Nothing in this section shall deprive any person of any defense which he would have had if such bond had not been filed, and the filing of the bond shall in no way affect the time within which the foreclosure suit shall be commenced.

87.645 Foreclosure. The liens described in ORS 87.125, 87.130, and 87.615 shall 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.

87.650 Rights of claimant against timber or lumber involved. Any person who brings a suit to enforce the lien described in ORS 87.125, 87.130 or 87.615, or any person having such a lien who is made a party to any such suit, has the right to demand that the lien be enforced against the whole or any part of the property which is subject to the lien.

87.655 Joinder of lien claimants; costs. Any number of persons claiming liens under ORS 87.125, 87.130 or 87.615 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's fee for each person claiming a lien.

87.660 Judgment; sale after judgment. In the suit described in ORS 87.645, judgment must be rendered in favor of each person having a lien for the amount due him, and the court shall order any property subject to such lien to be sold by the sheriff in the same manner that personal property is sold on execution, and the court shall apportion the proceeds of the sale to the payment of each judgment, pro rata, according to the amount of the judgment.

87.665 Sale before judgment. The judge may, in vacation, upon motion and by affidavit showing that the property is liable to loss or destruction, order any property subject to a lien described in ORS 87.125, 87.130 or 87.615 to be sold by the sheriff as personal property is sold on execution, before the judgment referred to in ORS 87.660 is rendered, and the proceeds of such sale shall be paid into court, to be applied as in that section directed.

87.670 Duration of lien. No lien described in ORS 87.125, 87.130 or 87.615 shall bind any timber or lumber for a longer period than six months after the claim has been filed, unless a suit is commenced in the circuit court within that time to enforce the lien.

87.675 Liability of person injuring, destroying or impeding identification of timber. Any person who injures, impairs, destroys or renders difficult or impossible of identification any property upon which there is a lien described in ORS 87.125, 87.130 or 87.615, without the express consent of the lienholder, shall be liable to the lienholder for the damages to the amount secured by his lien, which sum may be recovered by an action against such person without bringing the suit as provided for in ORS 87.645; provided, in such action the principal debtor shall be made a codefendant.

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 upon real property for taxes 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 a federal tax lien is situated.

(2) Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(a) If the person against whose interest the tax lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State;

(b) In all other cases in the office of the county clerk of the county where the taxpayer resides at the time of filing of the notice of lien.

[1967 c.445 §2]

87.810 [Repealed by 1967 c.445 §1]

87.811 Certification of tax lien notices. Certification by the Secretary of the Treasury of the United States or his delegate of notices of liens, certificates, or other notices affecting tax liens entitles them to be filed and no other attestation, certification or acknowledgment is necessary.

[1967 c.445 §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. (1) If a notice of federal tax lien, a refiling of a notice of tax lien, or a notice of revocation of any certificate described in subsection (2) of this section is presented to the filing officer and:

(a) He is the Secretary of State, he shall cause the notice or refiled notice to be marked, held and indexed in accordance with the provisions of subsection (4) of ORS 79.4030 as if the notice or refiled notice were a financing statement within the meaning of ORS 79.1010 to 79.5070; or

(b) He is any other officer described in ORS 87.806, he shall indorse thereon his identification 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 district director's serial number of the notice or refiled notice, and the total unpaid balance of the assessment appearing on the notice of lien or refiled notice of lien.

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

(a) Cause a certificate of release or nonattachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of ORS 79.4040, except that the notice of lien to which the certificate relates shall not be removed from the files; and

(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 79.4060.

(3) If any refiled notice of federal tax 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, he 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 federal tax lien index on the line where the original notice of lien is entered.

(4) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file in his office, on the date and hour stated therein, any notice of federal tax lien or certificate or notice affecting the lien, filed on or after June 14, 1941, naming a particular person, and if a notice or certificate is on file, giving the date and hour of its filing. The fee for a certificate is $1 plus 50 cents for each notice of federal tax lien and for each certificate or notice affecting the lien. Upon request the filing officer shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal tax lien for a fee of 50 cents per page.
[1967 c.445 §4]

87.820 [Repealed by 1967 c.445 §1]

87.821 Filing and indexing fee; billing. (1) The fee for filing and indexing each notice of lien or certificate or notice affecting the tax lien is $1.

(2) The filing officer described in ORS 87.806 shall bill the district directors of internal revenue on a monthly basis for fees for documents filed by them.
[1967 c.445 §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 Tax Lien Registration Act.
[1967 c.445 §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 Tax Lien Registration Act.
[1967 c.445 §7]

87.835 [Repealed by 1967 c.445 §1]

LIEN FOR CONTRIBUTIONS TO EMPLOYE BENEFIT PLAN

87.855 Lien for contributions to employe benefit plan; priority. (1) Every employer who is required to pay contributions, by agreement or otherwise, into a fund of any employe benefit plan in order that his employe may participate therein, shall pay such contributions in the required amounts and at the stipulated time or each employe 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 his behalf in order to qualify him for participation therein, and for any moneys expended or obligations incurred for medical, hospital or other expenses to which he 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 subsection (1) of ORS 87.860 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]

87.860 Filing of claim of lien. (1) The lien claimant under subsection (1) of ORS 87.855, or his representative, or the trustees of the employe benefit plan fund on the claimant's behalf, within 60 days after such 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 employe 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 to the employer a copy thereof within such time.

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

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's fee 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]

87.905 [Repealed by 1961 c.726 §427]

MISCELLANEOUS PROVISIONS AFFECTING LIENS

87.910 Cost of preparation of lien notice. Whenever any person files a notice or claim of lien under ORS 87.005 to 87.080, 87.085 to 87.140, 87.170 to 87.365, 87.500 to 87.515, 87.595, 87.600 and 87.615 to 87.675, he may add to the amount of his claim, as contained in the notice, $5 as costs for the preparation of the lien notice, and such amount thereupon shall become part of the lien against the property described in the notice. However, this section shall not apply to any lien claim paid in full prior to the expiration of the time allowed by law for the filing of the notice thereof, notwithstanding the notice was filed before such expiration date.

87.915 Liens to be filed with county clerk; validity or priority of liens filed in certain counties before August 9, 1961. (1) Whenever any lien is required to be filed with the recording officer of the county under ORS 87.035, 87.090, 87.140, 87.150, 87.190, 87.240, 87.270, 87.295, 87.335, 87.345, 87.380, 87.410, 87 505, 87.565, 87.630 or subsection (1) of ORS 87.860, it shall be filed with the county clerk of the county.

(2) The validity or priority of any lien filed prior to August 9, 1961, shall not be affected in any way by the fact that it was filed with either the county clerk or the recorder of conveyances in counties having a recorder of conveyances.

[1961 c.518 §§1, 3; 1963 c.604 §7]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1967.

Robert W. Lundy
Legislative Counsel