Chapter 79

1969 REPLACEMENT PART

Secured Transactions; Sales of Accounts, Contract Rights and Chattel Paper

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SHORT TITLE, APPLICABILITY AND DEFINITIONS

79.1010 Short title. ORS 79.1010 to 79.5070 may be cited as Uniform Commercial Code—Secured Transactions.
[1961 c.726 §79.1010]

79.1020 Policy and scope of ORS 79.1010 to 79.5070. (1) Except as otherwise provided in ORS 79.1030 on multiple state transactions and in ORS 79.1040 on excluded transactions, ORS 79.1010 to 79.5070 apply so far as concerns any personal property and fixtures within the jurisdiction of this state:

(a) To any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, accounts or contract rights; and also

(b) To any sale of accounts, contract rights or chattel paper.

(2) ORS 79.1010 to 79.5070 apply to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. ORS 79.1010 to 79.5070 do not apply to statutory liens except as provided in ORS 79.3100.

(3) The application of ORS 79.1010 to 79.5070 to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which ORS 79.1010 to 79.5070 do not apply.
[1961 c.726 §79.1020]

Definitional cross references:

"Account," ORS 79.1060.

"Chattel paper," ORS 79.1050.

"Contract," ORS 71.2010.

"Contract right," ORS 79.1060.

"Document," ORS 79.1050.

"General intangibles," ORS 79.1060.

"Goods," ORS 79.1050.

"Instrument," ORS 79.1050.

"Security interest," ORS 71.2010.

79.1030 Accounts, contract rights, general intangibles and equipment relating to another jurisdiction; and incoming goods already subject to a security interest. (1) If the office where the assignor of accounts or contract rights keeps his records concerning them is in this state, the validity and perfection of a security interest therein and the possibility and effect of proper filing is governed by ORS 79.1010 to 79.5070; otherwise by the law (including the conflict of laws rules) of the jurisdiction where such office is located.

(2) If the chief place of business of a debtor is in this state, ORS 79.1010 to 79.5070 govern the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally used in more than one jurisdiction (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state.

(3) If personal property other than that governed by subsections (1) and (2) of this section is already subject to a security interest when it is brought into this state, the validity of the security interest in this state is to be determined by the law (including the conflict of laws rules) of the jurisdiction where the property was when the security interest attached. However, if the parties to the transaction understood at the time that the security interest attached that the property would be kept in this state and it was brought into this state within 30 days after the security interest attached for purposes other than transportation through this state, then the validity of the security interest in this state is to be determined by the law of this state. If the security interest was already perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, the security interest continues perfected in this state for four

months and also thereafter if within the four-month period it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four-month period; in such case perfection dates from the time of perfection in this state. If the security interest was not perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, it may be perfected in this state; in such case perfection dates from the time of perfection in this state.

(4) Notwithstanding subsections (2) and (3) of this section, if personal property is covered by a certificate of title issued under a statute of this state or any other jurisdiction which requires indication on a certificate of title of any security interest in the property as a condition of perfection, then the perfection is governed by the law of the jurisdiction which issued the certificate.
[1961 c.726 §79.1030]

Definitional cross references:

"Account," ORS 79.1060.
"Contract right," ORS 79.1060.
"Debtor," ORS 79.1050.
"Equipment," ORS 79.1090.
"General intangibles," ORS 79.1060.
"Goods," ORS 79.1050.
"Inventory," ORS 79.1090.
"Security interest," ORS 71.2010.

79.1040 Transactions excluded from ORS 79.1010 to 79.5070. ORS 79.1010 to 79 5070 do not apply:

(1) To a security interest subject to any statute of the United States such as the Ship Mortgage Act, 1920, to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(2) To a landlord's lien; or

(3) To a lien given by statute or other rule of law for services or materials except as provided in ORS 79.3100 on priority of such liens; or

(4) To a transfer of a claim for wages, salary or other compensation of an employe; or

(5) To an equipment trust covering railway rolling stock; or

(6) To a sale of accounts, contract rights or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts, contract rights or chattel paper which is for the purpose of collection only, or a transfer of a contract right to an assignee who is also to do the performance under the contract; or

(7) To a transfer of an interest or claim in or under any policy of insurance; or

(8) To a right represented by a judgment; or

(9) To any right of setoff; or

(10) Except to the extent that provision is made for fixtures in ORS 79.3130, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(11) To a transfer in whole or in part of any of the following: any claim arising out of tort; any deposit, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization.
[1961 c.726 §79.1040]

Definitional cross references:

"Account," ORS 79.1060.
"Bank," ORS 71.2010.
"Chattel paper," ORS 79.1050.
"Contract," ORS 71.2010.
"Contract right," ORS 79.1060.
"Party," ORS 71.2010.
"Rights," ORS 71.2010.
"Security interest," ORS 71.2010.

79.1050 Definitions and index of definitions. (1) In ORS 79.1010 to 79.5070 unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper, contract right or general intangible.

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper.

(c) "Collateral" means the property subject to a security interest, and includes accounts, contract rights and chattel paper which have been sold.

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts, contract rights or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of ORS 79.1010 to 79.5070 dealing with the collateral, the obligor in any

provision dealing with the obligation, and may include both where the context so requires.

(e) "Document" means document of title as defined in ORS 71.2010.

(f) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures, but does not include money, documents, instruments, accounts, chattel paper, general intangibles, contract rights and other things in action. "Goods" also includes the unborn young of animals and growing crops; and standing timber which is to be cut and removed under a conveyance or contract of sale.

(g) "Instrument" means a negotiable instrument as defined in ORS 73.1040, or a security as defined in ORS 78.1020 or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment.

(h) "Security agreement" means an agreement which creates or provides for a security interest.

(i) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts, contract rights or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to ORS 79.1010 to 79.5070 and the sections in which they appear are:

(a) "Account," as defined in ORS 79.1060.

(b) "Consumer goods," as defined in subsection (1) of ORS 79.1090.

(c) "Contract right," as defined in ORS 79.1060.

(d) "Equipment," as defined in subsection (2) of ORS 79.1090.

(e) "Farm products," as defined in subsection (3) of ORS 79.1090.

(f) "General intangibles," as defined in ORS 79.1060.

(g) "Inventory," as defined in subsection (4) of ORS 79.1090.

(h) "Lien creditor," as defined in subsection (3) of ORS 79.3010.

(i) "Proceeds," as defined in subsection (1) of ORS 79.3060.

(j) "Purchase money security interest," as defined in ORS 79.1070.

(3) The following definitions in other sections apply to ORS 79.1010 to 79.5070:

(a) "Check," as defined in ORS 73.1040.

(b) "Contract for sale," as defined in ORS 72.1060.

(c) "Holder in due course," as defined in ORS 73.3020.

(d) "Note," as defined in ORS 73.1040.

(e) "Sale," as defined in ORS 72.1060.

(4) In addition, ORS 71.1010 to 71.2080 contain general definitions and principles of construction and interpretation applicable throughout ORS 79.1010 to 79.5070.
[1961 c.726 §79.1050; 1963 c.402 §10]

Definitional cross references:

"Account," ORS 79.1060.
"Agreement," ORS 71.2010.
"Contract right," ORS 79.1060.
"Document of title," ORS 71.2010.
"General intangibles," ORS 79.1060.
"Holder," ORS 71.2010.
"Money," ORS 71.2010.
"Negotiable instrument," ORS 73.1040.
"Person," ORS 71.2010.
"Representative," ORS 71.2010.
"Rights," ORS 71.2010.
"Security," ORS 78.1020.
"Security interest," ORS 71.2010.
"Writing," ORS 71.2010.

79.1060 Definitions: "account"; contract right"; "general intangibles." In ORS 79.1010 to 79.5070 unless the context otherwise requires:

(1) "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper.

(2) "Contract right" means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper.

(3) "General intangibles" means any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments.
[1961 c.726 §79.1060]

Definitional cross references:

"Chattel paper," ORS 79.1050.
"Contract," ORS 71.2010.
"Document," ORS 79.1050.
"Goods," ORS 79.1050.
"Instrument," ORS 79.1050.

79.1070 Definition: "purchase money security interest." A security interest is a "purchase money security interest" to the extent that it is:

(1) Taken or retained by the seller of the collateral to secure all or part of its price; or

(2) Taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.

[1961 c.726 §79.1070]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Person," ORS 71.2010.
"Rights," ORS 71.2010.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.1080 When after-acquired collateral not security for antecedent debt. Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course of his business or under a contract of purchase made pursuant to the security agreement within a reasonable time after new value is given.

[1961 c.726 §79.1080]

Definitional cross references:

"Collateral," ORS 79.1050.
"Contract," ORS 71.2010.
"Debtor," ORS 79.1050.
"Purchase," ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.1090 Classification of goods: "consumer goods"; "equipment"; "farm products"; "inventory." Goods are:

(1) "Consumer goods" if they are used or bought for use primarily for personal, family or household purposes.

(2) "Equipment" if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a nonprofit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods.

(3) "Farm products" if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory.

(4) "Inventory" if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

[1961 c.726 §79.1090]

Definitional cross references:

"Contract," ORS 71.2010.
"Debtor," ORS 79.1050.
"Goods," ORS 79.1050.
"Organization," ORS 71.2010.
"Person," ORS 71.2010.
"Sale," ORS 72.1060 and 79.1050.

79.1100 Sufficiency of description. For the purposes of ORS 79.1010 to 79.5070 any description of personal property or real estate is sufficient whether or not it is specific if it reasonably identifies what is described.

[1961 c.726 §79.1100]

79.1110 Applicability of bulk transfer laws. The creation of a security interest is not a bulk transfer under ORS 76.1010 to 76.1110.

[1961 c.726 §79.1110]

Definitional cross reference:

"Security interest," ORS 71.2010.

79.1120 Where collateral is not owned by debtor. Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under subsection (2) of ORS 79.5020 or under subsection (1) of ORS 79.5040, and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor:

(1) To receive statements under ORS 79.2080;

(2) To receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under ORS 79.5050;

(3) To redeem the collateral under ORS 79.5060;

(4) To obtain injunctive or other relief under subsection (1) of ORS 79.5070; and

(5) To recover losses caused to him under subsection (2) of ORS 79.2080.
[1961 c.726 §79.1120]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Notice," ORS 71.2010.
"Person," ORS 71.2010.
"Receive notice," ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.

79.1130 Security interests arising under ORS 72.1010 to 72.7250 on sales. A security interest arising solely under ORS 72.1010 to 72.7250 on sales is subject to the provisions of ORS 79.1010 to 79.5070 except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods:

(1) No security agreement is necessary to make the security interest enforceable; and

(2) No filing is required to perfect the security interest; and

(3) The rights of the secured party on default by the debtor are governed by ORS 72.1010 to 72.7250 on sales.
[1961 c.726 §79.1130]

Definitional cross references:

"Debtor," ORS 79.1050.
"Goods," ORS 79.1050.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.

VALIDITY OF SECURITY AGREEMENT AND RIGHTS OF PARTIES THERETO

79.2010 General validity of security agreement. Except as otherwise provided by the Uniform Commercial Code a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in ORS 79.1010 to 79.5070 validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail instalment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto.
[1961 c.726 §79.2010]

Definitional cross references:

"Collateral," ORS 79.1050.
"Creditor," ORS 71.2010.
"Party," ORS 71.2010.
"Purchaser," ORS 71.2010.
"Security agreement," ORS 79.1050.

79.2020 Title to collateral immaterial. Each provision of ORS 79.1010 to 79.5070 with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor.
[1961 c.726 §79.2020]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Remedy," ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.

79.2030 Enforceability of security interest; proceeds, formal requisites. (1) Subject to the provisions of ORS 74.2080 on the security interest of a collecting bank and ORS 79.1130 on a security interest arising under ORS 72.1010 to 72.7250 on sales, a security interest is not enforceable against the debtor or third parties unless:

(a) The collateral is in the possession of the secured party; or

(b) The debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops or oil, gas or minerals to be extracted or timber to be cut, a description of the land concerned. In describing collateral, the word "proceeds" is sufficient without further description to cover proceeds of any character.

(2) A transaction, although subject to ORS 79.1010 to 79.5070, is also subject to the provisions of ORS 83.510 to 83 680 and ORS chapter 725, and in the case of conflict between the provisions of ORS 79.1010 to 79.5070 and any such statutes, the provisions of such statutes control. Failure to comply with any applicable statute has only the effect which is specified therein.
[1961 c.726 §79.2030]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Party," ORS 71.2010.
"Proceeds," ORS 79.3060.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Signed," ORS 71.2010.

79.2040 When security interest attaches; after-acquired property; future advances. (1) A security interest cannot attach until there is agreement as defined in subsection (3) of ORS 71.2010 that it attach and value is given and the debtor has rights in the collateral. It attaches as soon as all the events in the preceding sentence have taken place unless explicit agreement postpones the time of attaching.

(2) For the purposes of this section the debtor has no rights:

(a) In crops until they are planted or otherwise become growing crops, in the young of livestock until they are conceived.

(b) In fish until caught, in oil, gas or minerals until they are extracted.

(c) In a contract right until the contract has been made.

(d) In an account until it comes into existence.

(3) Except as provided in subsection (4) of this section a security agreement may provide that collateral, whenever acquired, shall secure all obligations covered by the security agreement.

(4) No security interest attaches under an after-acquired property clause:

(a) To crops which become such more than two years after the security agreement is executed except that a security interest in crops which is given in conjunction with a lease or a land purchase or improvement transaction evidenced by a contract, mortgage or deed of trust may if so agreed attach to crops to be grown on the land concerned during the period of such real estate transaction.

(b) To consumer goods other than accessions when given as additional security unless the debtor acquires rights in them within 10 days after the secured party gives value.

(5) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment.
[1961 c.726 §79.2040; 1963 c.402 §5]

Definitional cross references:

"Account," ORS 79.1060.
"Agreement," ORS 71.2010.
"Collateral," ORS 79.1050.
"Consumer goods," ORS 79.1090.
"Contract," ORS 71.2010.
"Contract right," ORS 79.1060.
"Debtor," ORS 79.1050.
"Purchase," ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.2050 Use or disposition of collateral without accounting permissible. A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts, contract rights or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.
[1961 c.726 §79.2050]

Definitional cross references:

"Account," ORS 79.1060.
"Chattel paper," ORS 79.1050.
"Collateral," ORS 79.1050.
"Contract right," ORS 79.1060.
"Creditor," ORS 71.2010.
"Debtor," ORS 79.1050.
"Goods," ORS 79.1050.
"Proceeds," ORS 79.3060.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.

79.2060 Agreement not to assert defenses against assignee; modification of sales warranties where security agreement exists. (1) Subject to any statute or decision which establishes a different rule for buyers of consumer goods, an agreement by a buyer that he will not assert against an assignee any claim or defense which he may have against the seller is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which

may be asserted against a holder in due course of a negotiable instrument under ORS 73.1010 to 73.8050 on commercial paper. A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods ORS 72.1010 to 72.7250 govern the sale and any disclaimer, limitation or modification of the seller's warranties.

[1961 c.726 §79.2060]

Definitional cross references:

"Agreement," ORS 71.2010.
"Consumer goods," ORS 79.1090.
"Good faith," ORS 71.2010.
"Goods," ORS 79.1050.
"Holder," ORS 71.2010.
"Holder in due course," ORS 73.3020 and 79.1050.
"Negotiable instrument," ORS 73.1040.
"Notice," ORS 71.2010.
"Purchase money security interest," ORS 79.1070.
"Sale," ORS 72.1060 and 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.2070 Rights and duties when collateral is in secured party's possession. (1) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Unless otherwise agreed, when collateral is in the secured party's possession:

(a) Reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral.

(b) The risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage.

(c) The secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation.

(d) The secured party must keep the collateral identifiable but fungible collateral may be commingled.

(e) The secured party may repledge the collateral upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by his failure to meet any obligation imposed by subsections (1) and (2) of this section but does not lose his security interest.

(4) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value or pursuant to the order of a court of appropriate jurisdiction or, except in the case of consumer goods, in the manner and to the extent provided in the security agreement.

[1961 c.726 §79.2070]

Definitional cross references:

"Chattel paper," ORS 79.1050.
"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Instrument," ORS 79.1050.
"Money," ORS 71.2010.
"Party," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.

79.2080 Request for statement of account or list of collateral. (1) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(2) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security interest only as shown in the statement against persons misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest

known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding $10 for each additional statement furnished.
[1961 c.726 §79.2080]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Good faith," ORS 71.2010.
"Know," ORS 71.2010.
"Person," ORS 71.2010.
"Receive," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Send," ORS 71.2010.
"Written," ORS 71.2010.

RIGHTS OF THIRD PARTIES; PERFECTED AND UNPERFECTED SECURITY INTERESTS; RULES OF PRIORITY

79.3010 Persons who take priority over unperfected security interests; "lien creditor." (1) Except as otherwise provided in subsection (2) of this section, an unperfected security interest is subordinate to the rights of:

(a) Persons entitled to priority under ORS 79.3120.

(b) A person who becomes a lien creditor without knowledge of the security interests and before it is perfected.

(c) In the case of goods, instruments, documents and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected.

(d) In the case of accounts, contract rights and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within 10 days after the collateral comes into possession of the debtor, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy, or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. Unless all the creditors represented had knowledge of the security interests such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest.
[1961 c.726 §79.3010]

Definitional cross references:

"Account," ORS 79.1060.
"Buyer in ordinary course of business," ORS 71.2010.
"Chattel paper," ORS 79.1050.
"Collateral," ORS 79.1050.
"Contract right," ORS 79.1060.
"Creditor," ORS 71.2010.
"Delivery," ORS 71.2010.
"Document," ORS 79.1050.
"General intangibles," ORS 79.1060.
"Goods," ORS 79.1050.
"Instrument," ORS 79.1050.
"Knowledge," ORS 71.2010.
"Person," ORS 71.2010.
"Purchase money security interest," ORS 79.1070.
"Representative," ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.3020 When filing is required to perfect security interest; security interests to which filing provisions of ORS 79.1010 to 79.5070 do not apply. (1) A financing statement must be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under ORS 79.3050.

(b) A security interest temporarily perfected in instruments or documents without delivery under ORS 79.3040 or in proceeds for a 10-day period under ORS 79.3060.

(c) A purchase money security interest

in farm equipment having a purchase price not in excess of $2,500; but filing is required for a fixture under ORS 79.3130.

(d) A purchase money security interest in consumer goods; but filing is required for a fixture under ORS 79.3130.

(e) An assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor.

(f) A security interest of a collecting bank as provided in ORS 74.2080 or arising under ORS 72.1010 to 72.7250 on sales or covered in subsection (3) of this section.

(2) If a secured party assigns a perfected security interest, no filing under ORS 79.1010 to 79.5070 is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing provisions of ORS 79.1010 to 79.5070 do not apply to a security interest in property subject to a statute:

(a) Of the United States which provides for a national registration or filing of all security interests in such property; or

(b) Of this state which provides for central filing of, or which requires indication on, a certificate of title of such security interests in such property.

(4) A security interest in property covered by a statute described in subsection (3) of this section can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official, and such methods shall stand in lieu of and be equivalent to filing of a financing statement under ORS 79.1010 to 79.5070, except that a security interest in property described in paragraph (b) of subsection (3) of this section which constitutes inventory shall be perfected by the filing of a financing statement under the provisions of ORS 79.1010 to 79.5070.

(5) ORS 79.4010 to 79.4070 does not apply to a security interest in property of any description created by a deed of trust or mortgage made by a corporation primarily engaged in the railroad or street railway business, the furnishing of telephone or telegraph service, the transmission of oil, gas or petroleum products by pipeline, or the production, transmission or distribution of electricity, steam, gas or water, but such security interest may be perfected under ORS 79.1010 to 79.5070 by filing such deed of trust or mortgage in the office of the Secretary of State. When so filed, such instrument remains effective until terminated, without the need for filing a continuation statement. Assignments and releases of such instruments also may be filed in the office of the Secretary of State. The uniform fee for filing, indexing and furnishing filing data pursuant to this subsection is $1.

[1961 c.726 §79.3020; 1965 c.209 §1; 1967 c.395 §2; 1969 c.386 §1]

Definitional cross references:

"Account," ORS 79.1060.
"Collateral," ORS 79.1050.
"Consumer goods," ORS 79.1090.
"Contract right," ORS 79.1060.
"Creditor," ORS 71.2010.
"Debtor," ORS 79.1050.
"Delivery," ORS 71.2010.
"Document," ORS 79.1050.
"Equipment," ORS 79.1090.
"Instrument," ORS 79.1050.
"Inventory," ORS 79.1090.
"Proceeds," ORS 79.3060.
"Purchase," ORS 71.2010.
"Purchase money security interest," ORS 79.1070.
"Sale," ORS 72.1060 and 79.1050.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.

79.3030 When security interest is perfected; continuity of perfection. (1) A security interest is perfected when it has attached and when all the applicable steps required for perfection have been taken. Such steps are specified in ORS 79.3020, 79.3040, 79.3050 and 79.3060. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under ORS 79.1010 to 79.5070 and is subsequently perfected in some other way under ORS 79.1010 to 79.5070, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of ORS 79.1010 to 79.5070.

[1961 c.726 §79.3030]

Definitional cross reference:

"Security interest," ORS 71.2010.

79.3040 Perfection of security interest in instruments, documents and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession. (1) A security interest in chattel paper or negotiable documents

may be perfected by filing. A security interest in instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor:

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange; or

(b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21-day period in subsections (4) and (5) of this section perfection depends upon compliance with applicable provisions of ORS 79.1010 to 79.5070.

[1961 c.726 §79.3040]

Definitional cross references:

"Chattel paper," ORS 79.1050.
"Debtor," ORS 79.1050.
"Document," ORS 79.1050.
"Goods," ORS 79.1050.
"Instrument," ORS 79.1050.
"Receives" notification, ORS 71.2010.
"Sale," ORS 72.1060 and 79.1050.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.
"Written," ORS 71.2010.

79.3050 When possession by secured party perfects security interest without filing. A security interest in letters of credit, advices of credit, goods, instruments, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in ORS 79.1010 to 79.5070. The security interest may be otherwise perfected as provided in ORS 79.1010 to 79.5070 before or after the period of possession by the secured party.

[1961 c.726 §79.3050]

Definitional cross references:

"Chattel paper," ORS 79.1050.
"Collateral," ORS 79.1050.
"Documents," ORS 79.1050.
"Goods," ORS 79.1050.
"Instruments," ORS 79.1050.
"Receives" notification, ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.

79.3060 "Proceeds"; secured party's rights on disposition of collateral. (1) "Proceeds" includes whatever is received when collateral or proceeds is sold, exchanged, collected or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks and the like are "cash proceeds." All other proceeds are "noncash proceeds."

(2) Except where ORS 79.1010 to 79.5070 otherwise provide, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof by the debtor unless his action was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a

continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected 10 days after receipt of the proceeds by the debtor unless:

(a) A filed financing statement covering the original collateral also covers proceeds; or

(b) The security interest in the proceeds is perfected before the expiration of the 10-day period.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest:

(a) In identifiable noncash proceeds;

(b) In identifiable cash proceeds in the form of money which is not commingled with other money or deposited in a bank account prior to the insolvency proceedings;

(c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a bank account prior to the insolvency proceedings; and

(d) In all cash and bank accounts of the debtor, if other cash proceeds have been commingled or deposited in a bank account, but the perfected security interest under this paragraph (d) is:

(A) Subject to any right of setoff; and

(B) Limited to an amount not greater than the amount of any cash proceeds received by the debtor within 10 days before the institution of the insolvency proceedings and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash proceeds received by the debtor and paid over to the secured party during the 10-day period.

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) of this subsection to the extent that the transferee of the chattel paper was entitled to priority under ORS 79.3080.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a) of this subsection.

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) of this subsection must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

[1961 c.726 §79.3060]

Definitional cross references:

"Account," ORS 79.1060.
"Bank," ORS 71.2010.
"Chattel paper," ORS 79.1050.
"Check," ORS 73.1040 and 79.1050.
"Collateral," ORS 79.1050.
"Contract right," ORS 79.1060.
"Creditors," ORS 71.2010.
"Debtor," ORS 79.1050.
"Goods," ORS 79.1050.
"Insolvency proceedings," ORS 71.2010.
"Money," ORS 71.2010.
"Purchaser," ORS 71.2010.
"Sale," ORS 72.1060 and 79.1050.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.

79.3070 Protection of buyers of goods. (1) A buyer in ordinary course of business as defined in subsection (9) of ORS 71.2010, other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $2,500, other than fixtures, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own

farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.
[1961 c.726 §79.3070]

Definitional cross references:

"Buyer in ordinary course of business," ORS 71.2010.
"Consumer goods," ORS 79.1090.
"Equipment," ORS 79.1090.
"Farm products," ORS 79.1090.
"Goods," ORS 79.1050.
"Knows" and "Knowledge," ORS 71.2010.
"Person," ORS 71.2010.
"Purchase," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.3080 Purchase of chattel paper and nonnegotiable instruments. A purchaser of chattel paper or a nonnegotiable instrument who gives new value and takes possession of it in the ordinary course of his business and without knowledge that the specific paper or instrument is subject to a security interest has priority over a security interest which is perfected under ORS 79.3040 (permissive filing and temporary perfection). A purchaser of chattel paper who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in chattel paper which is claimed merely as proceeds of inventory subject to a security interest under ORS 79.3060, even though he knows that the specific paper is subject to the security interest.
[1961 c.726 §79.3080]

Definitional cross references:

"Chattel paper," ORS 79.1050.
"Instrument," ORS 79.1050.
"Inventory," ORS 79.1090.
"Knowledge," ORS 71.2010.
"Proceeds," ORS 79.3060.
"Purchaser," ORS 71.2010.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.3090 Protection of purchasers of instruments and documents. Nothing in ORS 79.1010 to 79.5070 limits the rights of a holder in due course of a negotiable instrument or a holder to whom a negotiable document of title has been duly negotiated as provided in ORS 77.5010, or a bona fide purchaser of a security as provided in ORS 78.3010 and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under ORS 79.1010 to 79.5070 does not constitute notice of the security interest to such holders or purchasers.
[1961 c.726 §79.3090]

Definitional cross references:

"Bona fide purchaser," ORS 78.3020.
"Document of title," ORS 71.2010.
"Duly negotiated," ORS 77.5010.
"Holder," ORS 71.2010.
"Holder in due course," ORS 73.3020 and 79.1050.
"Negotiable instrument," ORS 73.1040 and 79.1050.
"Notice," ORS 71.2010.
"Purchaser," ORS 71.2010.
"Security," ORS 78.1020 and 79.1050.
"Security interest," ORS 71.2010.

79.3100 Priority of certain liens arising by operation of law. When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise.
[1961 c.726 §79.3100]

Definitional cross references:

"Goods," ORS 79.1050.
"Person," ORS 71.2010.
"Security interest," ORS 71.2010.

79.3110 Alienability of debtor's rights; judicial process. The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default.
[1961 c.726 §79.3110]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Rights," ORS 71.2010.
"Sale," ORS 72.1060 and 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.

79.3120 Priorities among conflicting security interests in the same collateral. (1) The rules of priority stated in the following sections shall govern where applicable: ORS 74.2080 with respect to the security interest

of collecting banks in items being collected, accompanying documents and proceeds; ORS 79.3010 on certain priorities; ORS 79.3040 on goods covered by documents; ORS 79.3060 on proceeds and repossessions; ORS 79.3070 on buyers of goods; ORS 79.3080 on possessory against nonpossessory interests in chattel paper or nonnegotiable instruments; ORS 79.3090 on security interests in negotiable instruments, documents or securities; ORS 79.3100 on priorities between perfected security interests and liens by operation of law; ORS 79.3130 on security interests in fixtures as against interests in real estate; ORS 79.3140 on security interests in accessions as against interest in goods; ORS 79.3150 on conflicting security interests where goods lose their identity or become part of a product; and ORS 79.3160 on contractual subordination.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the collateral; and

(b) Any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and

(c) Such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 10 days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined as follows:

(a) In the order of filing if both are perfected by filing, regardless of which security interest attached first under subsection (1) of ORS 79.2040 and whether it attached before or after filing;

(b) In the order of perfection unless both are perfected by filing, regardless of which security interest attached first under subsection (1) of ORS 79.2040 and, in the case of a filed security interest, whether it attached before or after filing; and

(c) In the order of attachment under subsection (1) of ORS 79.2040 so long as neither is perfected.

(6) For the purpose of the priority rules of subsection (5) of this section, a continuously perfected security interest shall be treated at all times as if perfected by filing if it was originally so perfected and it shall be treated at all times as if perfected otherwise than by filing if it was originally perfected otherwise than by filing.

[1961 c.726 §79.3120]

Definitional cross references:

"Bank," ORS 71.2010.
"Chattel paper," ORS 79.1050.
"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Documents," ORS 79.1050.
"Give notice," ORS 71.2010.
"Goods," ORS 79.1050.
"Instruments," ORS 79.1050.
"Inventory," ORS 79.1090.
"Knowledge," ORS 71.2010.
"Person," ORS 71.2010.
"Proceeds," ORS 79.3060.
"Purchase money security interest," ORS 79.1070.
"Receives" notification, ORS 71.2010.
"Secured party," ORS 79.1050.
"Security," ORS 78.1020 and 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.

79.3130 Priority of security interests in fixtures. (1) The rules of this section do not apply to goods incorporated into a structure in the manner of lumber, bricks, tile, cement, glass, metal work and the like and no security interest in them exists under ORS 79.1010 to 79.5070 unless the structure remains personal property under applicable law. The law of this state other than the Uniform Commercial Code determines whether and when other goods become fixtures. The Uniform Commercial Code does not prevent creation of an encumbrance upon fixtures or real estate pursuant to the law applicable to real estate.

(2) A security interest which attaches to goods before they become fixtures takes priority as to the goods over the claims of all persons who have an interest in the real estate except as stated in subsection (4) of this section.

(3) A security interest which attaches to goods after they become fixtures is valid against all persons subsequently acquiring interests in the real estate except as stated in subsection (4) of this section but is invalid against any person with an interest in the real estate at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as fixtures.

(4) The security interests described in subsections (2) and (3) of this section do not take priority over:

(a) A subsequent purchaser for value of any interest in the real estate; or

(b) A creditor with a lien on the real estate subsequently obtained by judicial proceedings; or

(c) A creditor with a prior encumbrance of record on the real estate to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings is obtained, or the subsequent advance under the prior encumbrance is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the real estate at a foreclosure sale other than an encumbrancer purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(5) When under subsections (2) or (3) and (4) of this section a secured party has priority over the claims of all persons who have interests in the real estate, he may, on default, subject to the provisions of ORS 79.5010 to 79.5070, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

[1961 c.726 §79.3130]

Definitional cross references:

"Collateral," ORS 79.1050.
"Contract," ORS 71.2010.
"Creditor," ORS 71.2010.
"Debtor," ORS 79.1050.
"Goods," ORS 79.1050.
"Knowledge," ORS 71.2010.
"Person," ORS 71.2010.
"Purchase," ORS 71.2010.
"Purchaser," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.
"Writing," ORS 71.2010.

79.3140 Accessions. (1) A security interest in goods which attaches before they are installed in or affixed to other goods takes priority as to the goods installed or affixed (called in this section "accessions") over the claims of all persons to the whole except as stated in subsection (3) of this section and subject to subsection (1) of ORS 79.3150.

(2) A security interest which attaches to goods after they become part of a whole is valid against all persons subsequently acquiring interests in the whole except as stated in subsection (3) of this section but is invalid against any person with an interest in the whole at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as part of the whole.

(3) The security interests described in subsections (1) and (2) of this section do not take priority over:

(a) A subsequent purchaser for value of any interest in the whole; or

(b) A creditor with a lien on the whole

subsequently obtained by judicial proceedings; or

(c) A creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings obtained or the subsequent advance under the prior perfected security interest is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the whole at a foreclosure sale other than the holder of a perfected security interest purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(4) When under subsections (1) or (2) and (3) of this section a secured party has an interest in accessions which has priority over the claims of all persons who have interests in the whole, he may on default subject to the provisions of ORS 79.5010 to 79.5070 remove his collateral from the whole but he must reimburse any encumbrancer or owner of the whole who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

[1961 c.726 §79.3140]

Definitional cross references:

"Collateral," ORS 79.1050
"Creditor," ORS 71.2010.
"Debtor," ORS 79.1050.
"Goods," ORS 79.1050.
"Knowledge," ORS 71.2010.
"Person," ORS 71.2010.
"Purchaser," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.
"Value," ORS 71.2010.
"Writing," ORS 71.2010.

79.3150 Priority when goods are commingled or processed. (1) If a security interest in goods was perfected and subsequently the goods or a part thereof have become part of a product or mass, the security interest continues in the product or mass if:

(a) The goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass; or

(b) A financing statement covering the original goods also covers the product into which the goods have been manufactured, processed or assembled.

In a case to which paragraph (b) of this subsection applies, no separate security interest in that part of the original goods which has been manufactured, processed or assembled into the product may be claimed under ORS 79.3140.

(2) When under subsection (1) of this section more than one security interest attaches to the product or mass, they rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass.

[1961 c.726 §79.3150]

Definitional cross references:

"Goods," ORS 79.1050.
"Security interest," ORS 71.2010.

79.3160 Priority subject to subordination. Nothing in ORS 79.1010 to 79.5070 prevents subordination by agreement by any person entitled to priority.

[1961 c.726 §79.3160]

Definitional cross references.

"Agreement," ORS 71.2010.
"Person," ORS 71.2010.

79.3170 Secured party not obligated on contract of debtor. The mere existence of a security interest or authority given to the debtor to dispose of or use collateral does not impose contract or tort liability upon the secured party for the debtor's acts or omissions.

[1961 c.726 §79.3170]

Definitional cross references.

"Collateral," ORS 79.1050.
"Contract," ORS 71.2010.
"Debtor," ORS 79.1050.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.

79.3180 Defenses against assignee; modification of contract after notification of assignment; term prohibiting assignment ineffective; identification and proof of assignment. (1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in ORS 79.2060 the rights of an assignee are subject to:

(a) All the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment under an assigned contract right has not already become an account, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the account has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor which prohibits assignment of an account or contract right to which they are parties is ineffective.
[1961 c.726 §79.3180]

Definitional cross references:

"Account," ORS 79.1060.
"Account debtor," ORS 79.1050.
"Agreement," ORS 71.2010.
"Contract," ORS 71.2010.
"Contract right," ORS 79.1060.
"Good faith," ORS 71.2010.
"Party," ORS 71.2010.
"Receives" notification, ORS 71.2010.
"Rights," ORS 71.2010.
"Sale," ORS 72.1060 and 79.1050.
"Seasonably," ORS 71.2040.
"Term," ORS 71.2010.

FILING

79.4010 Place of filing; erroneous filing; removal of collateral. (1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county clerk or, if the county clerk be not a recorder of conveyances, then in the office of the county recorder and in either event in the county where the goods are kept or the crops are growing or to be grown.

(b) When the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded.

(c) In all other cases, in the office of the Secretary of State and in addition, if the debtor has a place of business in only one county of this state, also in the office of the county clerk or, if the county clerk be not a recorder of conveyances, then in the office of the county recorder of such county, or if the debtor has no place of business in this state, but resides in the state, also in the office of the county clerk or, if the county clerk be not a recorder of conveyances, then in the office of the county recorder of the county in which he resides.

(2) A filing which is made in good faith in an improper place or not in all the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of ORS 79.1010 to 79.5070 and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.
[1961 c.726 §79.4010; 1963 c.402 §6]

Definitional cross references:

"Account," ORS 79.1060.
"Collateral," ORS 79.1050.
"Consumer goods," ORS 79.1090.
"Debtor," ORS 79.1050.
"Equipment," ORS 79.1090.
"Farm products," ORS 79.1090.
"Financing statement," ORS 79.4020.
"Good faith," ORS 71.2010.
"Goods," ORS 79.1050.
"Knowledge," ORS 71.2010.
"Person," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.
"Signed," ORS 71.2010.

79.4020 Formal requisites of financing statement; amendments. (1) A financing statement is sufficient if it is signed by the debtor and the secured party, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by both parties.

(2) A financing statement which otherwise complies with subsection (1) of this section is sufficient although it is signed only by the secured party when it is filed to perfect a security interest in:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state. Such a financing statement must state that the collateral was brought into this state under such circumstances.

(b) Proceeds under ORS 79.3060 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.

(3) A form substantially as follows is sufficient to comply with subsection (1) of this section:

Name of debtor (or assignor) .....
Address .....
Name of secured party (or assignee) .....
Address .....

1. This financing statement covers the following types (or items) of property:
(Describe) .....

2. (If collateral is crops) The above described crops are growing or are to be grown on:
(Describe real estate) .....

3. (If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:
(Describe real estate) .....

4. (If proceeds or products of collateral are claimed) Proceeds—Products of the collateral are also covered.

Signature of debtor (or assignor) .....
Signature of secured party (or assignee) ..

(4) The term "financing statement" as used in ORS 79.1010 to 79.5070 means the original financing statement and any amendments but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(5) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(6) A carbon impression, a photocopy or other duplicate or reproduction of a financing statement, bearing or showing the signatures of the parties thereto, is a signed financing statement within the meaning of subsection (1) of this section.

[1961 c.726 §79.4020; 1963 c.402 §7]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Goods," ORS 79.1050.
"Party," ORS 71.2010.
"Proceeds," ORS 79.3060.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Signed," ORS 71.2010.

79.4025 Approval of standard forms by Secretary of State; effect. (1) Notwithstanding subsection (3) of ORS 79.4020, for the purpose of standardization, the Secretary of State shall approve for general use such forms of financing statements, continuation statements, statements of assignment, statements of partial release, statements of release and termination statements for filing with any filing officer pursuant to the Uniform Commercial Code, as shall conform to the provisions thereof. When the Secretary of State approves any form as a standard form, any filing officer may require payment of an additional filing fee, not exceeding 50 cents, for the filing and indexing of any nonstandard form serving only the same purpose.

(2) Upon payment of the fees payable pursuant to ORS 79.4025 to 79.4070, financing statements, continuation statements, statements of assignment, statements of partial release, statements of release and termination statements may be filed and filing officers shall accept, file and index the same and make certificates with respect thereto at any time after May 23, 1963.

[1963 c.370 §§1, 2]

Note: ORS 79.4025 was not enacted as part of ORS 79.1010 to 79.5070.

79.4030 What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer. (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under ORS 79.1010 to 79.5070.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of 60 days. Any other filed financing statement is effective for a period of five years from the date of filing. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such 60-day period after a stated maturity date or on the expiration of such five-year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected.

(3) A continuation statement may be filed by the secured party (a) within six months before and 60 days after a stated maturity date of five years or less, and (b) otherwise within six months prior to the expiration of the five-year period specified in subsection (2) of this section. Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement. The index may be made up of the statements themselves, copies thereof, separate cards or otherwise.

(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be $1.

[1961 c.726 §79.4030; 1963 c.402 §8]

Definitional cross references:

"Debtor," ORS 79.1050.
"Financing statement," ORS 79.4020.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.

79.4040 Termination statement. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be $1. If the affected secured party fails to send such a termination statement within 10 days after proper demand therefor he shall be liable to the debtor for $100, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(3) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be $1.

[1961 c.726 §79.4040]

Definitional cross references:

"Debtor," ORS 79.1050.
"Financing statement," ORS 79.4020.
"Person," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.
"Send," ORS 71.2010.
"Value," ORS 71.2010.
"Written," ORS 71.2010.

79.4050 Assignment of security interest; duties of filing officer; fees. (1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in subsection (4) of ORS 79.4030. The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be $1.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be $1.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

[1961 c.726 §79.4050]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Financing statement," ORS 79.4020.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Signed," ORS 71.2010.
"Written," ORS 71.2010.

79.4060 Release of collateral; duties of filing officer; fees. A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be $1.

[1961 c.726 §79.4060]

Definitional cross references:

"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Financing statement," ORS 79.4020.
"Secured party," ORS 79.1050.
"Signed," ORS 71.2010.

79.4070 Information from filing officer. (1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be $1 plus 50 cents for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of 50 cents per page.

[1961 c.726 §79.4070]

Definitional cross references:

"Debtor," ORS 79.1050.
"Financing statement," ORS 79.4020.
"Person," ORS 71.2010.
"Secured party," ORS 79.1050.
"Send," ORS 71.2010.

DEFAULT

79.5010 Default; procedure when security agreement covers both real and personal property. (1) When a debtor is in default under a security agreement, a secured party

has the rights and remedies provided in ORS 79.5010 to 79.5070 and except as limited by subsection (3) of this section those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in ORS 79.2070. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in ORS 79.5010 to 79.5070, those provided in the security agreement and those provided in ORS 79.2070.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided in subsection (1) of ORS 79.5050 with respect to compulsory disposition of collateral and with respect to redemption of collateral as provided in ORS 79.5060, but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) Subsection (2) of ORS 79.5020 and subsection (2) of ORS 79.5040 in so far as they require accounting for surplus proceeds of collateral;

(b) Subsection (3) of ORS 79.5040 and subsection (1) of ORS 79.5050 which deal with disposition of collateral;

(c) Subsection (2) of ORS 79.5050 which deals with acceptance of collateral as discharge of obligation;

(d) ORS 79.5060 which deals with redemption of collateral; and

(e) Subsection (1) of ORS 79.5070 which deals with the secured party's liability for failure to comply with ORS 79.5010 to 79.5070.

(4) If the security agreement covers both real and personal property, the secured party may proceed under ORS 79.5010 to 79.5070 as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case the provisions of ORS 79.5010 to 79.5070 do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of ORS 79.1010 to 79.5070.

[1961 c.726 §79.5010]

Definitional cross references:

"Agreement," ORS 71.2010.

"Collateral," ORS 79.1050.

"Debtor," ORS 79.1050.

"Documents," ORS 79.1050.

"Goods," ORS 79.1050.

"Remedy," ORS 71.2010.

"Rights," ORS 71.2010.

"Secured party," ORS 79.1050.

"Security agreement," ORS 79.1050.

"Security interest," ORS 71.2010.

79.5020 Collection rights of secured party. (1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under ORS 79.3060.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secured party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

[1961 c.726 §79.5020]

Definitional cross references:
"Account," ORS 79.1060.
"Account debtor," ORS 79.1050.
"Agreement," ORS 71.2010.
"Chattel paper," ORS 79.1050.
"Collateral," ORS 79.1050.
"Contract right," ORS 79.1060.
"Debtor," ORS 79.1050.
"Instrument," ORS 79.1050.
"Notify," ORS 71.2010.
"Proceeds," ORS 79.3060.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.

79.5030 Secured party's right to take possession after default. Unless otherwise agreed a secured party has on default the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under ORS 79.5040.
[1961 c.726 §79.5030]

Definitional cross references:
"Action," ORS 71.2010.
"Collateral," ORS 79.1050.
"Debtor," ORS 79.1050.
"Equipment," ORS 79.1090.
"Party," ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.

79.5040 Secured party's right to dispose of collateral after default; effect of disposition. (1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to ORS 72.1010 to 72.7250 on sales. The proceeds of disposition shall be applied in the order following to:

(a) The reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party.

(b) The satisfaction of indebtedness secured by the security interest under which the disposition is made.

(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or who is known by the secured party to have a security interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights

and interests even though the secured party fails to comply with the requirements of ORS 79.5010 to 79.5070 or of any judicial proceedings.

(a) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) In any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under ORS 79.1010 to 79.5070.

[1961 c.726 §79.5040]

Definitional cross references:

"Account," ORS 79.1060.
"Agreement," ORS 71.2010.
"Chattel paper," ORS 79.1050.
"Collateral," ORS 79.1050.
"Consumer goods," ORS 79.1090.
"Contract," ORS 71.2010.
"Contract right," ORS 79.1060.
"Debtor," ORS 79.1050.
"Financing statement," ORS 79.4020.
"Gives" notification, ORS 71.2010.
"Good faith," ORS 71.2010.
"Goods," ORS 79.1050.
"Knowledge," ORS 71.2010.
"Person," ORS 71.2010.
"Proceeds," ORS 79.3060.
"Purchaser," ORS 71.2010.
"Receives" notification, ORS 71.2010.
"Rights," ORS 71.2010.
"Sale," ORS 72.1060 and 79.1050.
"Secured party," ORS 79.1050.
"Security agreement," ORS 79.1050.
"Security interest," ORS 71.2010.
"Send," ORS 71.2010.
"Term," ORS 71.2010.
"Value," ORS 71.2010.
"Written," ORS 71.2010.

79.5050 Compulsory disposition of collateral; acceptance of the collateral as discharge of obligation. (1) If the debtor has paid 60 percent of the cash price in the case of a purchase money security interest in consumer goods or 60 percent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under ORS 79.5010 to 79.5070 a secured party who has taken possession of collateral must dispose of it under ORS 79.5040 and if he fails to do so within 90 days after he takes possession the debtor at his option may recover in conversion or under subsection (1) of ORS 79.5070 on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or is known by the secured party in possession to have a security interest in it. If the debtor or other person entitled to receive notification objects in writing within 30 days from the receipt of the notification or if any other secured party objects in writing within 30 days after the secured party obtains possession the secured party must dispose of the collateral under ORS 79.5040. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.

[1961 c.726 §79.5050]

Definitional cross references:

"Collateral," ORS 79.1050.
"Consumer goods," ORS 79.1090.
"Debtor," ORS 79.1050.
"Knows," ORS 71.2010.
"Notice," ORS 71.2010.
"Person," ORS 71.2010.
"Purchase money security interest," ORS 79.1070.
"Receives" notification, ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.
"Send," ORS 71.2010.
"Signed," ORS 71.2010.
"Written," ORS 71.2010.

79.5060 Debtor's right to redeem collateral. At any time before the secured party has disposed of collateral or entered into a contract for its disposition under ORS 79.5040 or before the obligation has been discharged under subsection (2) of ORS 79.5050 the debtor or any other secured party may

unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses.
[1961 c.726 §79.5060]

Definitional cross references:

"Agreement," ORS 71.2010.
"Collateral," ORS 79.1050.
"Contract," ORS 71.2010.
"Debtor," ORS 79.1050.
"Secured party," ORS 79.1050.
"Writing," ORS 71.2010.

79.5070 Secured party's liability for failure to comply with ORS 79.5010 to 79.5070. (1) If it is established that the secured party is not proceeding in accordance with the provisions of ORS 79.5010 to 79.5070 disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of ORS 79.5010 to 79.5070. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the debt or the time price differential plus 10 percent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.
[1961 c.726 §79.5070]

Definitional cross references:

"Collateral," ORS 79.1050.
"Consumer goods," ORS 79.1090.
"Creditor," ORS 71.2010.
"Debtor," ORS 79.1050.
"Knows," ORS 71.2010.
"Notification," ORS 71.2010.
"Person," ORS 71.2010.
"Representative," ORS 71.2010.
"Rights," ORS 71.2010.
"Secured party," ORS 79.1050.
"Security interest," ORS 71.2010.

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, 1969.

Robert W. Lundy
Legislative Counsel