

# Chapter 99

1991 EDITION

## Property Removed by High Water

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### CROSS REFERENCES

- Boats, owners to report loss or abandonment, 830.710
- Branded logs, presumption as to ownership, 532.040
- County removing or destroying drifts and drifting materials, 549.720
- Finding boat lost or adrift, report required, 830.050
- Log patrols and booming companies, disposition of stray logs, boom sticks and boom chains, 532.510 to 532.710
- Recovery of parts of trees lost from vehicles, 98.610

## **PROPERTY RIGHTS AND TRANSACTIONS**

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**99.010 Procedure for reclaiming property placed on another's land by high water.** When the fence rails or other property of any person in this state is removed by high water and lodged upon the land of another, the owner of the property removed may, except as provided in ORS 99.050, proceed upon the premises where such property is lodged within four months after the removal. If the proprietor of the land refuses to deliver up the property, the parties shall each select an arbitrator who shall examine or hear evidence upon all the circumstances and facts and determine the case. If the arbitrators cannot agree, they shall select an umpire, and the decision of a majority of them shall be final between the parties.

**99.020 Oath of arbitrators.** Before the arbitrators proceed as provided in ORS 99.010, they shall be sworn to discharge their duties faithfully, impartially and according to law by a person having power to administer oaths.

**99.030 Procedure when five or more claimants.** When five or more persons claim property as provided in ORS 99.010, they shall give notice to all interested of the time and place of such arbitration. Upon hearing all the facts and circumstances in the case, the arbitrators shall award to each claimant such a portion of the property as the arbitrators deem reasonable and just.

**99.040 Entry to reclaim not a trespass.** It is not considered a trespass for any person to go upon the land of another for the purpose mentioned in ORS 99.010 to 99.030 if such person shall, if practicable, go upon such route as will do the least possible injury to the land.

**99.050 Recovery of any part of tree from private property.** Any person may enter upon private property where any part of a fallen tree belonging to or under the control of such person has been cast by freshets or high waters, for the purpose of recovering and reclaiming the same. Before entering the land the person shall post a bond or an irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005 with the Public Utility Commission, to be approved by the commissioner, in such sum as the commissioner may provide. The bond or irrevocable letter of credit shall run to the Public Utility Commission to insure to any landowner the payment of any damage resulting from removal or reclaiming of such property. The owner of the land shall be compensated for any damages resulting from the removal. [Amended by 1991 c.331 §25]

**99.060 Effect of failure to remove logs from another's land.** If any person fails to remove and reclaim logs, timber or any part of a fallen tree within one year after it is cast upon private property as provided in ORS 99.050, it is deemed abandoned and the title thereto vests in the person entitled to the possession of the land upon which the same is found.

**99.070 Landowner's rights following removal of logs.** In all matters and respects the rights of a landowner mentioned in ORS 99.050 and the powers of the Public Utility Commission in relation to the landowner's claim shall be governed by the provisions of ORS 98.630 as they relate to landowners mentioned in ORS 98.610.

## **PROPERTY RIGHTS AND TRANSACTIONS**

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