



STATE BOARD OF TOWING
Oregon Revised Statutes
2021 Edition

The following Oregon Revised Statutes provide an overview of the laws regulating the tow and recovery industry at an entry level.

Current and complete versions of the Oregon Revised Statutes are located at https://www.oregonlegislature.gov/bills_laws

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State Board of Towing

ORS 822.250 State Board of Towing

- (1) The State Board of Towing is established within the Department of Transportation.
- (2) The State Board of Towing consists of nine members appointed by the Governor as follows:
 - (a) One member who holds a towing business certificate issued under ORS 822.205 (Certificate) and who represents a city in Oregon with a population of 100,000 or more;
 - (b) One member who holds a towing business certificate issued under ORS 822.205 (Certificate) and who represents a city in Oregon with a population of less than 100,000;
 - (c) One member who holds a towing business certificate issued under ORS 822.205 (Certificate) and who has specialized knowledge in towing equipment and vehicles with a gross vehicle weight rating of more than 44,000 pounds;
 - (d) One member who holds a towing business certificate issued under ORS 822.205 (Certificate) and who has specialized knowledge in towing vehicles with a gross vehicle weight rating of 26,000 pounds or less;
 - (e) One member who represents the insurance industry;
 - (f) One member from a tow program within the Department of State Police;
 - (g) One member who is a chief of police;
 - (h) One member who is a member of the public; and
 - (i) One member who is a consumer advocate.
- (3) All members of the board must be residents of Oregon.
- (4) The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
- (5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495 (Compensation and expenses of members of state boards and commissions). [2021 c.578 §1]

Note: Section 2, chapter 578, Oregon Laws 2021, provides: Sec. 2. Initial terms of office. Notwithstanding the term of office specified by section 1 of this 2021 Act [822.250 (State Board of Towing)], of the members first appointed to the State Board of Towing:

- (1) Two shall serve for a term ending July 1, 2022.*
- (2) Two shall serve for a term ending July 1, 2023.*
- (3) Two shall serve for a term ending July 1, 2024.*
- (4) Three shall serve for a term ending July 1, 2025. [2021 c.578 §2]*

ORS 822.255 Chair and Vice Chair

- (1) The State Board of Towing shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the board determines.

(2) Except as provided in subsection (3) of this section, a majority of the members of the board constitutes a quorum for the transaction of business.

(3) When the board is deliberating or voting on a matter before it, four members of the board constitute a quorum.

(4) No more than two members who are towers may vote on any matter. The chairperson shall assign a rotation of voting members who are towers. If an assigned member who is a tower has an actual or potential conflict of interest in a matter before the board, the chairperson shall designate a different member who is a tower and who does not have an actual or potential conflict of interest in the matter before the board to deliberate and vote on that matter.

(5) The board shall meet at least once a quarter at a time and place determined by the board. The board shall also meet at such other times and places as are specified by the call of the chairperson, vice chairperson or administrative officer. [2021 c.578 §3]

ORS 822.260 Administrative Officer for Board

(1) The State Board of Towing shall appoint an administrative officer to serve at the pleasure of the Governor. The determination of qualifications of the administrative officer and appointment of the administrative officer shall be made by the board after consulting with the Governor.

(2) The administrative officer may not be a member of the board.

(3) The designation of the administrative officer must be by written order, filed with the Secretary of State.

(4) The administrative officer is in the unclassified service under ORS chapter 240, and the board shall fix the salary of the administrative officer in accordance with the applicable provisions of ORS chapter 240.

(5) Subject to any applicable provisions of ORS chapter 240, the administrative officer shall appoint all subordinate officers and employees of the board, prescribe their duties and fix their compensation. [2021 c.578 §4]

ORS 822.265 Rulemaking Authority

(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:

(a) Necessary for the administration of the laws that the board is charged with administering.

(b) To implement ORS 98.853 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

(2) The board may adopt a seal. [2021 c.578 §5]

ORS 822.270 State Board of Towing Account

(1) The State Board of Towing Account is established in the State Treasury, separate and distinct from the General Fund.

(2) The account consists of the following:

- (a) Moneys collected from fees imposed under ORS 822.285 (Additional powers of board).
- (b) Moneys appropriated to the account by the Legislative Assembly.
- (c) Moneys from any other source.

(3) Moneys in the account are continuously appropriated to the Department of Transportation to carry out the provisions of ORS 822.250 (State Board of Towing) to 822.290 (Denial of participation on Department of State Police tow rotation) and 822.995 (Civil penalties for violations related to towing). [2021 c.578 §6]

ORS 822.275 Administration of Oaths

The State Board of Towing, acting through its chairperson or vice chairperson, may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the provisions of ORS 822.250 (State Board of Towing) to 822.290 (Denial of participation on Department of State Police tow rotation) and 822.995 (Civil penalties for violations related to towing). If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the procedure set out in ORS 183.440 (Subpoenas in contested cases) shall be followed to compel obedience. [2021 c.578 §7]

ORS 822.280 Denial, Suspension, Revocation or Refusal of Towing Business Certificate

(1) As used in this section:

- (a) "Person" includes individuals, public bodies as defined in ORS 174.109 ("Public body" defined), corporations, firms, associations, partnerships, limited liability companies, joint stock companies or any other business entity created under law.
- (b) "Relative" means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the common law or an individual in an adoptive relationship within the third degree as determined by the common law. [2021 c.578 §8]

(2) In addition to any other penalty provided under ORS 822.215 (Grounds for denial, suspension, revocation or refusal of certificate) and subject to ORS chapter 183, the State Board of Towing may order the Department of Transportation to deny, suspend, revoke or refuse to renew a towing business certificate issued under ORS 822.205 (Certificate), if the person holding or applying for the certificate:

- (a) Fails to comply with any rule adopted by the board;
- (b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle), 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature), 181A.350 (Eligibility of towing business to be placed on department list), 822.200 (Operating illegal towing business), 822.215 (Grounds for denial, suspension, revocation or refusal of certificate), 822.225 (Failure to remove injurious substance), 822.230 (City or county regulation of towing businesses), 822.235 (Recovery after theft) or 822.605 (False swearing relating to regulation of vehicle related businesses);

- (c) Fails to comply with an order of the board, including but not limited to the failure to pay a civil penalty as ordered by the board;
- (d) Has performed work as a tower without the appropriate certification or letter of appointment to participate on the rotational list of towing businesses established under ORS 181A.350 (Eligibility of towing business to be placed on department list), or has employed individuals to perform work as towers without appropriate certification or letter of appointment;
- (e) Has advertised or otherwise held themselves out as being a certified towing business without holding the appropriate certification;
- (f) As a, or as a relative of a, partner, officer, member or employee of a towing business, advertises or holds themselves out as a towing business that is certified if the towing business does not possess the appropriate certification;
- (g) Has engaged in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles;
- (h) Fails to meet any condition or requirement to obtain a certificate or letter of appointment;
- (i) Acts or has acted in a manner creating a serious danger to the public health or safety; or
- (j) Has been subject to a revocation, cancellation or suspension order or to other disciplinary action related to towing or the towing industry by any other public body, as defined in ORS 174.109 ("Public body" defined), or has failed to pay a civil penalty imposed by the public body.

(3) A violation described in subsection (2) of this section for which the board orders that the department deny, suspend, revoke or refuse to renew a certificate to perform work or conduct business may be treated as a failure to be in conformance with ORS 822.250 (State Board of Towing) to 822.290 (Denial of participation on Department of State Police tow rotation) and 822.995 (Civil penalties for violations related to towing).

(4) A person subject to discipline under this section is entitled to a contested case hearing in accordance with ORS chapter 183.

(5) The board is the agency responsible for providing notice and contested case hearing rights under ORS chapter 183 to a person subject to discipline under this section. [2021 c.578 §8]

ORS 822.285 Additional Powers of Board

(1) In carrying out its investigative and enforcement duties, functions and powers, and notwithstanding any other provision of law, the State Board of Towing may procure services and award a contract for the personal services of a subject matter expert, on a case-by-case basis, in any manner deemed practical or convenient. The price of such contracts, including any amendments, may not exceed \$25,000.

(2) If the board has reason to believe that any person has been engaged or is engaging in any violation of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle), 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature), 181A.350 (Eligibility of towing business to be placed on department list), 822.200 (Operating illegal towing business), 822.215 (Grounds for denial, suspension, revocation or refusal of certificate), 822.225 (Failure to remove injurious substance), 822.230 (City or county regulation of towing businesses), 822.235 (Recovery after

theft), 822.250 (State Board of Towing) to 822.290 (Denial of participation on Department of State Police tow rotation), 822.605 (False swearing relating to regulation of vehicle related businesses) or 822.995 (Civil penalties for violations related to towing) or any rule adopted under those statutes, or any order issued by the board, the board may, without bond, bring suit in the name and on behalf of the State of Oregon in the circuit court of any county of this state to enjoin the acts or practices and to enforce compliance with ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle), 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature), 181A.350 (Eligibility of towing business to be placed on department list), 822.200 (Operating illegal towing business), 822.215 (Grounds for denial, suspension, revocation or refusal of certificate), 822.225 (Failure to remove injurious substance), 822.230 (City or county regulation of towing businesses), 822.235 (Recovery after theft), 822.250 (State Board of Towing) to 822.290 (Denial of participation on Department of State Police tow rotation), 822.605 (False swearing relating to regulation of vehicle related businesses) or 822.995 (Civil penalties for violations related to towing) or any rule adopted under those statutes, or any order issued by the board. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted.

(3) The board, by rule, may impose a fee on any person holding or applying for a towing business certificate. The amount of the fee shall be established to recover expenses incurred by the board in carrying out ORS 822.250 (State Board of Towing) to 822.290 (Denial of participation on Department of State Police tow rotation) and 822.995 (Civil penalties for violations related to towing). Any fees collected under this subsection shall be deposited into the State Board of Towing Account established under ORS 822.270 (State Board of Towing Account). [2021 c.578 §9]

ORS 822.290 Denial of Participation on Department of State Police Tow Rotation

(1) As used in this section:

(a) "Person" includes individuals, public bodies as defined in ORS 174.109 ("Public body" defined), corporations, firms, associations, partnerships, limited liability companies, joint stock companies or any other business entity created under law.

(b) "Relative" means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the common law or an individual in an adoptive relationship within the third degree as determined by the common law.

(2) Subject to ORS chapter 183, the State Board of Towing may order the Department of State Police to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing businesses established under ORS 181A.350 (Eligibility of towing business to be placed on department list), if the person holding or applying for the letter of appointment:

(a) Fails to comply with any rule adopted by the board;

(b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle), 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of

emergency nature), 181A.350 (Eligibility of towing business to be placed on department list), 822.200 (Operating illegal towing business), 822.215 (Grounds for denial, suspension, revocation or refusal of certificate), 822.225 (Failure to remove injurious substance), 822.230 (City or county regulation of towing businesses), 822.235 (Recovery after theft) or 822.605 (False swearing relating to regulation of vehicle related businesses);

(c) Fails to comply with an order of the board, including but not limited to the failure to pay a civil penalty as ordered by the board;

(d) Has performed work as a tower without the appropriate certification or letter of appointment or has employed individuals to perform work as towers without appropriate certification or letter of appointment;

(e) Has advertised or otherwise held themselves out as being a certified tower without holding the appropriate certification;

(f) As a, or as a relative of a, partner, officer, member or employee of a towing business, advertises or holds themselves out as a towing business that is certified if the towing business does not possess the appropriate certification;

(g) Has engaged in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles;

(h) Fails to meet any condition or requirement to obtain a certificate or letter of appointment;

(i) Acts or has acted in a manner creating a serious danger to the public health or safety; or

(j) Has been subject to a revocation, cancellation or suspension order or to other disciplinary action related to towing or the towing industry by any other public body, as defined in ORS 174.109 ("Public body" defined), or has failed to pay a civil penalty imposed by the public body.

(3) A violation described in subsection (2) of this section for which the board orders the department to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing business established under ORS 181A.350 (Eligibility of towing business to be placed on department list) may be treated as a failure to be in conformance with ORS 822.250 (State Board of Towing) to 822.290 (Denial of participation on Department of State Police tow rotation) and 822.995 (Civil penalties for violations related to towing).

(4) A person subject to discipline under this section is entitled to a contested case hearing in accordance with ORS chapter 183.

(5) The board is the agency responsible for providing notice and contested case hearing rights under ORS chapter 183 to a person subject to discipline under this section. [2021 c.578 §10]

ORS 822.995 Civil Penalties for Violations Related to Towing

(1) In addition to any other penalty provided by law, any person who violates any provision of ORS 98.853 (Conditions allowing towing),

98.854 (Prohibitions placed on tower),

98.856 (Tower responsibility of disclosure to owner or operator of vehicle),

98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature),

181A.350 (Eligibility of towing business to be placed on department list),

822.200 (Operating illegal towing business),

822.215 (Grounds for denial, suspension, revocation or refusal of certificate),

822.225 (Failure to remove injurious substance),

822.230 (City or county regulation of towing businesses),
822.235 (Recovery after theft) or
822.605 (False swearing relating to regulation of vehicle related businesses)
or any rule adopted by the State Board of Towing is subject to payment of a civil penalty to the board.

(2) The board may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$25,000 for each violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745 (Civil penalty procedures).

(4) In imposing a penalty pursuant to the schedule adopted under subsection (2) of this section, the board shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations by the person incurring the penalty of statutes, rules or orders pertaining to facilities.

(c) The economic and financial conditions of the person incurring the penalty.

(d) The immediacy and extent to which a violation threatens the public health or safety. [2021 c.578 §11]

ORS Assigned to the Board for Implementation or Administration

ORS 98.853 Conditions Allowing Towing

- (1) A tower may tow a motor vehicle if the motor vehicle:
- (a) Blocks or prevents access by emergency vehicles;
 - (b) Blocks or prevents entry to the premises;
 - (c) Blocks a parked motor vehicle; or
 - (d) Parks without permission in a parking facility used for residents of an apartment and:
 - (A) There are more residential units than there are parking spaces;
 - (B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and
 - (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.
- (2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge. [2017 c.480 §9]

ORS 98.854 Prohibitions Placed on Tower

A tower may not:

- 1 (a) Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.
- (b) Notwithstanding paragraph (a) of this subsection, a tower may tow a motor vehicle from a parking facility with the prior consent of the owner or operator of the motor vehicle.
- (2) Except as provided in ORS 98.853 (Conditions allowing towing), tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle. The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.
- (3) Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.
- (4) Tow a motor vehicle from a parking facility if the owner of the parking facility or the owner's agent is an employee of a tower.

(5) Charge more than a price disclosed under ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) when towing a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

(6) Charge more than an amount set under ORS 98.859 (Maximum rates for towing) when towing a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

(7) Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident, unless the tower tows the motor vehicle pursuant to a prenegotiated payment agreement between the tower and a motor vehicle road service company.

(8) Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

(9) Provide consideration to obtain the privilege of towing motor vehicles from a parking facility. For the purposes of this paragraph, the provision of:

(a) Signs by a tower under ORS 98.862 (Exceptions to requirements of ORS 98.856) does not constitute consideration.

(b) Goods or services by a tower below fair market value constitutes consideration.

(10) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or personal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to dispute:

(a) The reason for the tow;

(b) The validity or amount of charges; or

(c) The responsibility of the tower for the condition of the motor vehicle or personal property in the motor vehicle.

(11) Hold a towed motor vehicle for more than 24 hours without:

(a) Taking an inventory of all personal property in the motor vehicle that is visible from the exterior of the motor vehicle; and

(b) Holding the personal property in the motor vehicle in a secure manner.

(12) Accept cash as a method of payment for towing services unless the tower provides exact change not later than the end of the business day following receipt of payment.

(13) Operate in a city or county without a license issued by the city or county if required by ORS 98.861 (Licenses for towing).

(14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing). [2007 c.538 §3; 2009 c.622 §2; 2013 c.135 §1; 2013 c.691 §1; 2017 c.480 §7]

ORS 98.856 Tower Responsibility of Disclosure to Owner or Operator of Vehicle

(1) A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous written statement of at least 10-point boldfaced type:

- (a) The prices the tower charges for all the goods and services that the tower offers;
 - (b) The location where the tower will:
 - (A) Store the motor vehicle and personal property in the motor vehicle; or
 - (B) Tow the motor vehicle, if the tower is towing the motor vehicle to a location other than a location under the control of the tower;
 - (c) The telephone number and any other means of contacting the tower, and the hours of availability at that telephone number and at the other means of contacting the tower;
 - (d) The methods of payment that the tower accepts; and
 - (e) That, if the owner or operator of the motor vehicle pays for the tow with cash, the tower will provide, in person or by mail, exact change not later than the end of the business day following receipt of payment.
- (2) If the owner or operator is present at the time of the tow, the tower shall provide the information required under this section to the owner or operator of the motor vehicle before towing the motor vehicle.
- (3) If the owner or operator of the motor vehicle is not present at the time of the tow, the tower shall provide the information required under this section to the owner or person in lawful possession of the motor vehicle prior to the time the owner or person in lawful possession of the motor vehicle redeems the motor vehicle.
- (4) If the owner or operator of the motor vehicle is not present at the time of the tow:
- (a) Within five business days from the date of the tow, the tower shall request the name and address of the owner of the motor vehicle from the records of the state motor vehicle agency for the state in which the motor vehicle is registered.
 - (b) The tower shall provide the information required under this section to the owner of the motor vehicle by mail by the end of the first business day following receipt of the information contained in the records of the state motor vehicle agency.
 - (c) If the owner of the motor vehicle or a person in lawful possession of the motor vehicle redeems the motor vehicle or contacts the tower prior to five business days after the tow, the tower is not required to contact the state motor vehicle agency.
- (5) If the owner or operator of the motor vehicle is not present at the time of the tow but the owner or operator of the motor vehicle requested the tow and arranged to pay the tower directly, the tower may obtain the name and address of the owner of the motor vehicle from the owner or operator of the motor vehicle and may provide the information required under this section:
- (a) Within five business days after the tow; or
 - (b) With a copy of the invoice for the tow or upon receipt of payment, whichever first occurs.
- [2007 c.538 §4; 2009 c.622 §3; 2017 c.480 §10]

ORS 98.857 Recovery of Stolen Vehicle

- (1) After a motor vehicle reported as stolen is recovered by a law enforcement agency, the agency shall share the owner's contact information, including home address and telephone number, from either the Law Enforcement Data System or the stolen vehicle police report, with any tower that assumes control of the vehicle. The contact information may be used only for the purposes described in subsection (2) of this section.

- (2) As soon as is practicable after recovering the motor vehicle, the tower shall attempt to provide notice to the owner of the stolen motor vehicle:
- (a) That the motor vehicle has been recovered; and
 - (b) Of the current location of the vehicle.
- (3) Fees charged by the tower for storage of a stolen motor vehicle may not begin to accrue until the date that the tower first attempts to notify the owner of the stolen motor vehicle under subsection (2) of this section. *[2017 c.523 §3]*

ORS 98.858 Right of Owner or Person in Lawful Possession of Vehicle to Redeem or Inspect Vehicle, Contact Tower and Obtain Property of Emergency Nature

- (1) A tower in physical possession of a motor vehicle shall permit the owner or person in lawful possession of a motor vehicle the tower has towed to:
- (a) Redeem or inspect the motor vehicle:
 - (A) Between 8 a.m. and 6 p.m. on business days;
 - (B) At all other hours, within 60 minutes after asking the tower to release or allow for the inspection of the motor vehicle; and
 - (C) Within 30 minutes of a time mutually agreed upon between the tower and the owner or person in lawful possession of the motor vehicle;
 - (b) Contact the tower at any time to receive information about the location of the motor vehicle and instructions for obtaining release of the motor vehicle; and
 - (c) Obtain all personal property of an emergency nature in the motor vehicle and the motor vehicle's registration plates within the time allowed under paragraph (a) of this subsection.
- (2) A tower may not charge the owner or person in lawful possession of the motor vehicle a fee in any amount to obtain personal property of an emergency nature or registration plates except for a gate fee between the hours of 6 p.m. and 8 a.m. on business days, or on a Saturday, a Sunday or a legal holiday. *[2007 c.538 §5; 2017 c.480 §11; 2017 c.523 §8; 2019 c.13 §25; 2019 c.17 §1]*

ORS 98.859 Maximum Rates for Towing

- (1) Each city or county may establish the maximum rates that a tower may charge for towing a motor vehicle, and for all related services for towing a motor vehicle, in response to a request for towing of a vehicle parked within the city or county that is made by a person other than the owner or operator of the motor vehicle. The rates for related services include charges for hookup, storage, gas mileage, pictures, unlocking the motor vehicle and any other services reasonably related to towing as determined by the city or county. Rates established by a city or county under this subsection apply in all portions of the city or county.
- (2) When establishing the maximum rates under this section, the city or county shall take into consideration the size of the motor vehicle towed and the distance traveled by the tower from the location of the motor vehicle to a storage facility.
- (3) Each city or county that establishes maximum rates under this section shall also establish a process by which the city or county will receive and respond to complaints relating to violations of this section.

(4) If a city establishes the maximum rates under this section, the county rates do not apply to towing a vehicle that is parked within the boundaries of that city and the tower is required to comply with only the city's established maximum rates. *[2013 c.691 §3]*

ORS 98.860 Conditions for Release of Vehicle to Insurance Company

Undertaking to Adjust Claim

(1) For purposes of this section, an insurance company undertaking to adjust a claim involving a towed motor vehicle is a person in lawful possession and entitled to release of the motor vehicle if:

(a) The insurance company has obtained permission from the owner or another person in lawful possession of the motor vehicle to secure release of the motor vehicle; and

(b) The insurance company transmits to the tower by facsimile or electronic mail a document that reasonably identifies the insurance company as a person in lawful possession and directs the tower to release the motor vehicle to a person designated by the insurance company.

(2) A tower who, in good faith, releases a motor vehicle under subsection (1) of this section is not liable for damages for releasing the motor vehicle to a person designated by the insurance company or for damages that arise after release of the motor vehicle.

(3) This section does not prohibit a tower from releasing a motor vehicle to an insurance company in a manner other than that provided for in subsection (1) of this section. *[2007 c.538 §6]*

ORS 98.861 Licenses for Towing

(1) Subject to subsection (5) of this section:

(a) A tower may not tow vehicles parked within the boundaries of a city without a license issued by the city, if the city has established the maximum rates that a tower may charge under ORS 98.859 (Maximum rates for towing).

(b) A tower may not tow vehicles parked within the boundaries of a county without a license issued by the county, if the county has established the maximum rates that a tower may charge under ORS 98.859 (Maximum rates for towing). The tower is not required to obtain a license from a county when the tower tows a vehicle that is parked within the boundaries of a city located within the county and the tower is licensed by that city.

(2) Application for a license under this section must be made in writing in the form prescribed by the city or county, and must contain the name and address of the applicant and any other information that the city or county may require.

(3) The fee for issuing a license under this section shall be established by the city or county, but may not exceed the cost of administering the licensing program and administering ORS 98.859 (Maximum rates for towing).

(4) A license issued under this section expires annually on December 31 or on a date that may be specified by the city or county by ordinance.

(5) The requirement to get a license under this section applies only to towers that tow a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

(6) A city or county may suspend or revoke a license issued under this section for violation of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) or 98.859 (Maximum rates for towing). [2013 c.691 §4; 2017 c.480 §12]

ORS 98.862 Exceptions to requirements of ORS 98.856

A tower need not provide the written information required under ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) if:

(1) The motor vehicle is towed from a parking facility where the tower has provided the information on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.

(2) The tower is hired or otherwise engaged by an agency taking custody of a vehicle under ORS 819.140 (Agencies having authority to take vehicle into custody).

(3) The tower tows the motor vehicle under a prenegotiated payment agreement between the tower and a motor vehicle road service company or an insurance company.

(4) The tower is hired or otherwise engaged by a business entity at the request of the owner or operator of the motor vehicle to tow the motor vehicle. [2007 c.538 §7]

Violations and Civil Penalties

Under ORS 822.995 Civil Penalties may be imposed for violations of the following statutes:

ORS 822.200 Operating Illegal Towing Business

(1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate issued under ORS 822.205 (Certificate) and the person does any of the following:

(a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovery activity.

(b) Engages in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles.

(c) Purports in any way to be engaged in the business of performing activities described in this subsection.

(2) This section does not apply to any of the following:

(a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310 (Privileges granted by certificate).

(b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

- (c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.
 - (d) An employee of a person issued a towing business certificate under ORS 822.205 (Certificate) while that employee is performing official duties as an employee.
 - (e) A person who holds a valid dismantler certificate under ORS 822.110 (Dismantler certificate) who tows a vehicle described under ORS 819.280 (Disposal of vehicle at request of person in lawful possession).
- (3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor. *[1983 c.338 §811; 1985 c.16 §410; 2005 c.738 §§6,6a]*

ORS 822.215 Grounds for Denial, Suspension, Revocation or Refusal of Certificate Disciplinary Action

- (1) The Department of Transportation may deny or refuse to issue any towing business certificate under ORS 822.205 (Certificate) or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:
- (a) Used fraud or deception in securing the certificate.
 - (b) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This paragraph does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.
 - (c) Used vehicles for the purposes of towing or recovering services that did not meet the minimum safety standards established by the department.
 - (d) Failed to display special towing business registration plates, stickers or indicia or identification devices for proportionally registered tow vehicles authorized under ORS 805.200 (Plates and other devices with special designs) on each vehicle used to tow or recover vehicles.
 - (e) Failed to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205 (Certificate).
 - (f) Failed to obtain any permits or authority required under any provision of ORS chapter 825 or rules adopted thereunder.
 - (g) Violated any provision of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) or 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature) or a rule adopted under ORS 822.265 (Rulemaking authority).
- (2) After receiving an order from the State Board of Towing under ORS 822.280 (Denial, suspension, revocation or refusal of towing business certificate), the department shall impose the disciplinary action requested by the board. *[1983 c.338 §814; 1991 c.284 §30; 1993 c.741 §145; 2007 c.538 §17; 2017 c.480 §13; 2021 c.578 §13]*

ORS 822.225 Failure to Remove Injurious Substance

- (1) A person commits the offense of tow vehicle operator failure to remove injurious substance if the person is operating a tow vehicle that is removing a wrecked or damaged vehicle from a highway and the person fails to remove any glass or other injurious substance dropped upon the highway from such vehicle.

(2) The offense described in this section, tow vehicle operator failure to remove injurious substance, is a Class D traffic violation. [1983 c.338 §816; 1985 c.71 §10; 1995 c.383 §115]

ORS 822.230 City or County Regulation of Towing Businesses

(1) Notwithstanding ORS 822.200 (Operating illegal towing business) to 822.225 (Failure to remove injurious substance), and except as provided in subsection (2) of this section, a city or county may, by charter or ordinance, regulate towing businesses if the city or county charter or ordinance provisions pertain only to towing authorized by ORS 98.812 (Towing of unlawfully parked vehicle) and the provisions:

- (a) Regulate an aspect of a towing business that is not regulated by ORS 822.200 (Operating illegal towing business) to 822.225 (Failure to remove injurious substance); or
- (b) Regulate an aspect of the towing business that is regulated by ORS 822.200 (Operating illegal towing business) to 822.225 (Failure to remove injurious substance) and the provisions of the charter or ordinance are more stringent than those of the statutes.

(2) This section does not authorize imposition of any license fee or tax on a towing business by a city or county.

(3) The governing body of a city or county may adopt ordinances that include, but are not limited to, the following requirements:

- (a) That towing businesses accept methods of payment other than and in addition to cash.
- (b) That towing businesses post fees in a conspicuous place at the location of the towed vehicles.
- (c) That any posted signs that warn of the possibility of towing or that give information about recovery of a towed vehicle be prominently displayed and show the fees charged to recover a towed vehicle.
- (d) That towing businesses offer transportation at a reasonable cost from within the immediate vicinity of the place from which the vehicle was towed to the towed vehicle.
- (e) That towing businesses establish locations for towed vehicles in such a way that no vehicle will be towed a greater distance than is necessary and reasonable.
- (f) That towed vehicles be stored in a public location that has at least one attendant on duty at all times. [1987 c.765 §2]

ORS 822.235 Recovery after Theft

(1) If a tower recovers a vehicle after a theft, the vehicle is totaled and the vehicle has no applicable insurance coverage, the person who is the owner of the vehicle may transfer the person's interest in the vehicle to the tower in payment or partial payment of the tower's fees for recovery and storage of the vehicle.

(2) A tower that accepts a transfer of interest in a vehicle from a person under this section may not assess fees against the person for storage of the totaled vehicle that occurs on and after the date of the transfer of interest.

(3) Notwithstanding the provisions for liens under ORS 98.812 (Towing of unlawfully parked vehicle) and 98.830 (Towing abandoned vehicle from private property), if a person transfers their interest in a vehicle under this section to a tower within 14 days of the date the person receives notice under ORS 98.857 (Recovery of stolen vehicle), the tower may not bring an action against the person for, or otherwise take any affirmative steps to collect or permit an

agency or assignee to collect, any amount as compensation for towing, caring for or storing the totaled vehicle.

(4) A tower that receives title under this section is responsible for any fees imposed by the Department of Transportation for transferring title. *[2017 c.523 §5; 2019 c.13 §70]*

ORS 822.605 False Swearing Relating to Regulation of Vehicle Related Businesses

(1) A person commits the offense of false swearing relating to regulation of vehicle related businesses if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the regulation of vehicle dealers, vehicle dismantlers, towing businesses, vehicle transporters, snowmobile dealers, Class I all-terrain vehicle dealers, commercial driver training schools or driver training instructors under the vehicle code.

(2) The offense described in this section, false swearing relating to regulation of vehicle related businesses, is a Class C felony. *[1983 c.338 §836; 1987 c.217 §12; 2005 c.654 §39]*

Oregon Revised Statutes Related to the Tow and Recovery Industry

ORS 98.810 Unauthorized Parking of Vehicle on Proscribed Property Prohibited

A person may not, without the permission of:

(1) The owner of a parking facility, leave or park any vehicle on the parking facility if there is a sign displayed in plain view at the parking facility prohibiting or restricting public parking on the parking facility.

(2) The owner of proscribed property, leave or park any vehicle on the proscribed property whether or not there is a sign prohibiting or restricting parking on the proscribed property.

[1953 c.575 §1; 1979 c.100 §3; 1981 c.861 §24; 1983 c.436 §3; 2007 c.538 §10]

ORS 98.812 Towing of unlawfully parked vehicle

(1) If a vehicle has been left or parked in violation of ORS 98.810 (Unauthorized parking of vehicle on proscribed property prohibited), the owner of the parking facility or the owner of the proscribed property may have a tower tow the vehicle from the parking facility or the proscribed property and place the vehicle in storage at a secure location under the control of the tower.

(2) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges and may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towage, care and storage, subject to subsection (3) of this section, of the towed vehicle have been paid if the tower notifies the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage.

(3) A tower may not assess any storage charge against the towed vehicle under subsection (2) of this section that is incurred after:

(a) If the towed vehicle is registered in Oregon, three business days after the vehicle is placed in storage unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the certificate of title.

(b) If the towed vehicle is not registered in Oregon:

(A) Three business days after the vehicle is placed in storage unless, within that time, the tower notifies and requests the title information from the records of the motor vehicle agency for the state in which the towed vehicle is registered.

(B) Three business days from the date of receipt of the records requested under subparagraph (A) of this paragraph unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the requested records.

(4) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (Time period before foreclosure allowed) (3) and 87.176 (Fees for storage of chattel) to 87.206 (Disposition of proceeds of foreclosure sale) for foreclosure of liens arising or claimed under ORS 87.152 (Possessory lien for labor or material expended on chattel). [1953 c.575 §2; 1977 c.634 §1; 1979 c.100 §4; 1981 c.861 §25; 1983 c.436 §4; 1993 c.385 §2; 2001 c.424 §1; 2007 c.538 §11; 2009 c.622 §1; 2017 c.480 §2; 2019 c.547 §1]

ORS 181A.350 Eligibility of Towing Business to be Placed on Department List Rules

The Superintendent of State Police may make rules governing the eligibility of towing businesses to be placed and remain on any list of such businesses used by the Department of State Police when it requests towing services on behalf of any person. *[Formerly 181.440]*

ORS 819.100 Abandoning a Vehicle

- (1) A person commits the offense of abandoning a vehicle if the person abandons a vehicle upon a highway or upon any public or private property.
- (2) The owner of the vehicle as shown by the records of the Department of Transportation shall be considered responsible for the abandonment of a vehicle in the manner prohibited by this section and shall be liable for the cost of towing and disposition of the abandoned vehicle.
- (3) A vehicle abandoned in violation of this section is subject to the provisions for towing and sale of abandoned vehicles under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) to 819.215 (Disposal of vehicle appraised at \$500 or less).
- (4) The offense described in this section, abandoning a vehicle, is a Class B traffic violation. *[1983 c.338 §677; 1995 c.758 §7; 2009 c.371 §5]*

ORS 819.110 Custody, Towing and Sale or Disposal of Abandoned Vehicle

- (1) After providing notice required under ORS 819.170 (Notice prior to taking vehicle into custody and towing) and, if requested, a hearing under ORS 819.190 (Hearing to contest validity of custody and towing), an authority described under ORS 819.140 (Agencies having authority to take vehicle into custody) may take a vehicle into custody and tow the vehicle if:
 - (a) The authority has reason to believe the vehicle is disabled or abandoned; and
 - (b) The vehicle has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.
- (2) The power to take vehicles into custody under this section is in addition to any power to take vehicles into custody under ORS 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction).
- (3) Subject to ORS 819.150 (Rights and liabilities of owner), vehicles and the contents of vehicles taken into custody under this section are subject to a lien as provided under ORS 819.160 (Lien for towing).
- (4) The person that tows a vehicle under this section shall have the vehicle appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480 (Vehicle appraiser certificate).
- (5) Vehicles taken into custody under this section are subject to sale or disposal under ORS 819.210 (Sale or disposal of vehicle not reclaimed) or 819.215 (Disposal of vehicle appraised at \$500 or less) if the vehicles are not reclaimed as provided under ORS 819.150 (Rights and liabilities of owner) or returned to the owner or person entitled to possession under ORS 819.190 (Hearing to contest validity of custody and towing). *[1983 c.338 §417; 1995 c.758 §8; 2009 c.371 §6]*

ORS 819.120 Immediate Custody and Towing of Vehicle Constituting Hazard or Obstruction

(1) An authority described under ORS 819.140 (Agencies having authority to take vehicle into custody) may immediately take custody of and tow a vehicle that is disabled, abandoned, parked or left standing unattended on a road or highway right of way and that is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway.

(2) As used in this section, a “hazard or obstruction” includes, but is not necessarily limited to:
(a) Any vehicle that is parked so that any part of the vehicle extends within the paved portion of the travel lane.

(b) Any vehicle that is parked so that any part of the vehicle extends within the highway shoulder or bicycle lane:

(A) Of any freeway within the city limits of any city in this state at any time if the vehicle has a gross vehicle weight of 26,000 pounds or less;

(B) Of any freeway within the city limits of any city in this state during the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. if the vehicle has a gross vehicle weight of more than 26,000 pounds;

(C) Of any freeway within 1,000 feet of the area where a freeway exit or entrance ramp meets the freeway; or

(D) Of any highway during or into the period between sunset and sunrise if the vehicle presents a clear danger.

(3) As used in this section, “hazard or obstruction” does not include parking in a designated parking area along any highway or, except as described in subsection (2) of this section, parking temporarily on the shoulder of the highway as indicated by a short passage of time and by the operation of the hazard lights of the vehicle, the raised hood of the vehicle, or advance warning with emergency flares or emergency signs.

(4) An authority taking custody of a vehicle under this section must give the notice described under ORS 819.180 (Notice after taking into custody and towing) and, if requested, a hearing described under ORS 819.190 (Hearing to contest validity of custody and towing).

(5) The power to take vehicles into custody under this section is in addition to any power to take vehicles into custody under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle).

(6) Subject to ORS 819.150 (Rights and liabilities of owner), vehicles and the contents of vehicles taken into custody under this section are subject to a lien as provided under ORS 819.160 (Lien for towing).

(7) The person that tows a vehicle under this section shall have the vehicle appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480 (Vehicle appraiser certificate).

(8) Vehicles taken into custody under this section are subject to sale or disposal under ORS 819.210 (Sale or disposal of vehicle not reclaimed) or 819.215 (Disposal of vehicle appraised at \$500 or less) if the vehicles are not reclaimed under ORS 819.150 (Rights and liabilities of owner)

or returned to the owner or person entitled thereto under ORS 819.190 (Hearing to contest validity of custody and towing).

(9) The Oregon Transportation Commission, by rule, shall establish additional criteria for determining when vehicles on state highways, interstate highways and state property are subject to being taken into immediate custody under this section. *[1983 c.338 §418; 1985 c.77 §1; 1991 c.464 §1; 1995 c.758 §9; 2007 c.509 §1; 2009 c.371 §7]*

ORS 819.150 Rights and Liabilities of Owner

The owner, a person entitled to possession or any person with an interest recorded on the title of a vehicle taken into custody under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) or 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction):

(1) Is liable for all costs and expenses incurred in the towing, preservation and custody of the vehicle and its contents except that:

(a) The owner, a person entitled to the vehicle or any person with an interest recorded on the title is not liable for nor shall be required to pay storage charges for a period in excess of 20 days unless the person has received a written notice under ORS 819.160 (Lien for towing). In no case shall a person be required to pay storage charges for a storage period in excess of 60 days.

(b) A security interest holder is not liable under this subsection unless the security interest holder reclaims the vehicle.

(2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under ORS 819.210 (Sale or disposal of vehicle not reclaimed) or 819.215 (Disposal of vehicle appraised at \$500 or less) upon presentation to the authority holding the vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and expenses for which the person is liable under this section.

(3) If the vehicle is taken into custody under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) or 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction), has a right to request and have a hearing under ORS 819.190 (Hearing to contest validity of custody and towing) or under procedures established under ORS 801.040 (Authority to adopt special provisions), as appropriate.

(4) If the vehicle is sold or disposed of under ORS 819.210 (Sale or disposal of vehicle not reclaimed) or 819.215 (Disposal of vehicle appraised at \$500 or less), has no further right, title or claim to or interest in the vehicle or the contents of the vehicle.

(5) If the vehicle is sold or disposed of under ORS 819.210 (Sale or disposal of vehicle not reclaimed), has a right to claim the balance of the proceeds from the sale or disposition as provided under ORS 87.206 (Disposition of proceeds of foreclosure sale).

(6) Has no right to a hearing if the vehicle is disposed of under ORS 819.215 (Disposal of vehicle appraised at \$500 or less). *[1983 c.338 §421; 1985 c.316 §2; 1993 c.233 §64; 1993 c.385 §§5,5a; 1995 c.79 §378; 1995 c.758 §11; 2005 c.738 §4; 2009 c.371 §9]*

ORS 819.160 Lien for Towing

(1) Except as otherwise provided by this section, a person shall have a lien on the vehicle and its contents if the person, at the request of an authority described under ORS 819.140 (Agencies having authority to take vehicle into custody), tows any of the following vehicles:

- (a) An abandoned vehicle appraised at a value of more than \$500 by a person who holds a certificate issued under ORS 819.480 (Vehicle appraiser certificate).
- (b) A vehicle taken into custody under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) or 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction), unless it is an abandoned vehicle appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480 (Vehicle appraiser certificate).
- (c) A vehicle left parked or standing in violation of ORS 811.555 (Illegal stopping, standing or parking) or 811.570 (Improperly positioning parallel parked vehicle).

(2) A lien established under this section shall be on the vehicle and its contents for the just and reasonable charges for the towing service performed and any storage provided. However, the storage charge is limited subject to ORS 98.812 (Towing of unlawfully parked vehicle) (3). A lien described under this section does not attach:

- (a) To the contents of any vehicle taken from public property until 15 days after taking the vehicle into custody.
- (b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 (Illegal stopping, standing or parking) or 811.570 (Improperly positioning parallel parked vehicle).

(3) A person that tows any vehicle at the request of an authority under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) or 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction) shall transmit by first class mail with a certificate of mailing, no later than the third business day after the vehicle and its contents are placed in storage, written notice, approved by the authority, containing information on the procedures necessary to obtain a hearing under ORS 819.190 (Hearing to contest validity of custody and towing). The notice shall be provided to the owner, a person entitled to possession or any person with an interest recorded on the title to the vehicle. This subsection does not apply to a person that tows an abandoned vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480 (Vehicle appraiser certificate). *[1983 c.338 §422; 1985 c.16 §223; 1993 c.326 §5; 1993 c.385 §6; 1995 c.79 §379; 1995 c.758 §12; 2007 c.538 §15; 2009 c.11 §99; 2009 c.371 §10; 2019 c.547 §4]*

ORS 819.170 Notice Prior to Taking Vehicle into Custody and Towing

If an authority proposes to take custody of a vehicle under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle), the authority shall provide notice and shall provide an explanation of procedures available for obtaining a hearing under ORS 819.190 (Hearing to contest validity of custody and towing). Except as otherwise provided under ORS 801.040 (Authority to adopt special provisions), notice required under this section shall comply with all of the following:

- (1) Notice shall be given by affixing a notice to the vehicle with the required information. The notice shall be affixed to the vehicle at least 24 hours before taking the vehicle into custody. The 24-hour period under this subsection includes holidays, Saturdays and Sundays.

(2) Notice shall state all of the following:

(a) That the vehicle will be subject to being taken into custody and towed by the appropriate authority if the vehicle is not removed before the time set by the appropriate authority.

(b) The statute, ordinance or rule violated by the vehicle and under which the vehicle will be towed.

(c) The place where the vehicle will be held in custody or the telephone number and address of the appropriate authority that will provide the information.

(d) That the vehicle, if taken into custody and towed by the appropriate authority, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.

(e) That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid.

(f) That the owner, possessor or person having an interest in the vehicle is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and towing if a hearing is timely requested.

(g) That the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing.

(h) The time within which a hearing must be requested and the method for requesting a hearing. [1983 c.338 §423; 1985 c.316 §3; 1993 c.385 §§7,7a; 1995 c.758 §13; 2009 c.371 §11]

ORS 819.180 Notice After Taking into Custody and Towing

(1) If an authority takes custody of a vehicle under ORS 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction), the authority shall provide, by certified mail within 48 hours of the towing, written notice with an explanation of procedures available for obtaining a hearing under ORS 819.190 (Hearing to contest validity of custody and towing) to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190 (Hearing to contest validity of custody and towing). The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.

(2) Any notice given under this section after a vehicle is taken into custody and towed shall state all of the following:

(a) That the vehicle has been taken into custody and towed, the identity of the appropriate authority that took the vehicle into custody and towed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and towed.

(b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.

(c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.

(d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.

(e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and towing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(f) The time within which a hearing must be requested and the method for requesting a hearing.
(g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority. [1983 c.338 §424; 1985 c.316 §4; 1993 c.385 §8; 1995 c.758 §14; 2009 c.371 §12]

ORS 819.185 Procedure for Vehicles that have no Identification Markings

If there is no vehicle identification number on a vehicle and there are no registration plates and no other markings through which the Department of Transportation could identify the owner of the vehicle, then an authority otherwise required to provide notice under ORS 819.170 (Notice prior to taking vehicle into custody and towing) or 819.180 (Notice after taking into custody and towing) is not required to provide such notice and the vehicle may be towed and disposed of as though notice and an opportunity for a hearing had been given. [1995 c.758 §22; 2009 c.371 §13]

ORS 819.190 Hearing to Contest Validity of Custody and Towing

A person provided notice under ORS 819.170 (Notice prior to taking vehicle into custody and towing) or 819.180 (Notice after taking into custody and towing) or any other person who reasonably appears to have an interest in the vehicle may request a hearing under this section to contest the validity of the towing and custody under ORS 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction) or proposed towing and custody of a vehicle under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) by submitting a request for hearing with the appropriate authority not more than five days from the mailing date of the notice. The five-day period in this section does not include holidays, Saturdays or Sundays. Except as otherwise provided under ORS 801.040 (Authority to adopt special provisions), a hearing under this section shall comply with all of the following:

(1) If the authority proposing to tow a vehicle under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) receives a request for hearing before the vehicle is taken into custody and towed, the vehicle may not be towed unless the vehicle constitutes a hazard.

(2) A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the custody and towing of the vehicle is not justified.

(3) Upon receipt of a request for a hearing under this section, the appropriate authority shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owners of the vehicle and any lessors or security interest holders shown in the records of the Department of Transportation, if not the same as the person requesting the hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.

(4) If the appropriate authority finds, after hearing and by substantial evidence on the record, that the custody and towing of a vehicle was:

(a) Invalid, the appropriate authority shall order the immediate release of the vehicle to the owner or person with right of possession. If the vehicle is released under this paragraph, the person to whom the vehicle is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges on the vehicle, the authority responsible for taking the vehicle into custody and towing the vehicle shall reimburse the

person for the charges. New storage costs on the vehicle will not start to accrue, however, until more than 24 hours after the time the vehicle is officially released to the person under this paragraph.

(b) Valid, the appropriate authority shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid by the party claiming the vehicle. If the vehicle has not yet been towed, the appropriate authority shall order that the vehicle be towed.

(5) A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the appropriate authority for the person's failure to appear.

(6) An appropriate authority is only required to provide one hearing under this section for each time the appropriate authority takes a vehicle into custody and tows the vehicle or proposes to do so.

(7) A hearing under this section may be used to determine the reasonableness of the charge for towing and storage of the vehicle. Towing and storage charges set by law, ordinance or rule or that comply with law, ordinance or rule are reasonable for purposes of this subsection.

(8) An authority shall provide a written statement of the results of a hearing held under this section to the person requesting the hearing.

(9) Hearings held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the presentation of evidence required for contested cases under ORS 183.450 (Evidence in contested cases).

(10) The hearings officer at a hearing under this section may be an officer, official or employee of the appropriate authority but shall not have participated in any determination or investigation related to taking into custody and towing the vehicle that is the subject of the hearing.

(11) The determination of a hearings officer at a hearing under this section is final and is not subject to appeal. [1983 c.338 §425; 1985 c.16 §224; 1985 c.316 §5; 2009 c.371 §14]

ORS 819.200 Exemption from Notice and Hearing Requirements for Vehicle held in Criminal Investigation

A vehicle that is being held as part of any criminal investigation is not subject to any requirements under ORS 819.170 (Notice prior to taking vehicle into custody and towing) to 819.190 (Hearing to contest validity of custody and towing) unless the criminal investigation relates to the theft of the vehicle. [1983 c.338 §426; 1993 c.385 §9]

ORS 819.210 Sale or Disposal of Vehicle not Reclaimed

(1) If a vehicle taken into custody under ORS 819.110 (Custody, towing and sale or disposal of abandoned vehicle) or 819.120 (Immediate custody and towing of vehicle constituting hazard or obstruction) is not reclaimed within 30 days after it is taken into custody, the person that towed the vehicle shall either:

- (a) Sell the vehicle and its contents at public auction in the manner provided in ORS 87.192 (Notice of foreclosure sale to lien debtor) and 87.196 (Notice of foreclosure sale to secured parties); or
- (b) Dispose of the vehicle in a manner provided by local ordinance.

(2) The contents of any vehicle sold under this section are subject to the same conditions of sale as the vehicle in which they are found. *[1983 c.338 §427; 1995 c.758 §15; 2009 c.371 §15]*

ORS 819.215 Disposal of Vehicle Appraised at \$500 or Less

(1) If an abandoned vehicle is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480 (Vehicle appraiser certificate), the person that towed the vehicle shall:

- (a) Notify the registered owner and secured parties as provided in subsection (3) of this section;
- (b) Photograph the vehicle;
- (c) Notify the Department of Transportation that the vehicle will be disposed of; and
- (d) Unless the vehicle is claimed by a person entitled to possession of it within 15 days of the date of notice under subsection (3) of this section, dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110 (Dismantler certificate).

(2) The authority that requests towing of an abandoned vehicle shall provide to the person that tows the vehicle, at the time of the tow or as soon as possible thereafter, a written statement that contains the name and address of the registered owner of the vehicle, as shown by records of the department, and the names and addresses of any persons claiming interests in the vehicle, as shown by records of the department.

(3) Within 48 hours after the written statement is provided under subsection (2) of this section to a person that tows a vehicle, the person must give written notice to the persons whose names are furnished in the statement. The 48-hour period does not include Saturdays, Sundays or holidays. The notice shall state that a person that is entitled to possession of the vehicle has 15 days from the date the notice was mailed to claim the vehicle and that if the vehicle is not claimed, it will be disposed of as provided in this section.

(4) If the authority that requests towing of an abandoned vehicle does not provide to the person that tows the vehicle the written statement within 48 hours after the vehicle is towed, the person may dispose of the vehicle as provided in ORS 819.210 (Sale or disposal of vehicle not reclaimed).

(5) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights.

(6) The department shall adopt rules specifying the form in which notification to the department required by subsection (1) of this section shall be submitted and what information shall be conveyed to the department. The person that tows the vehicle may submit to the dismantler a copy of any notification submitted to the department under this section instead of submitting to the dismantler ownership or other title documents for the vehicle. *[1993 c.326 §2; 1995 c.758 §16; 2005 c.654 §29; 2009 c.371 §16]*

ORS 819.480 Vehicle Appraiser Certificate

(1) A person who is issued a vehicle appraiser certificate by the Department of Transportation under this section is qualified to appraise any vehicle, including vehicles for sale under ORS 819.210 (Sale or disposal of vehicle not reclaimed) and 819.215 (Disposal of vehicle appraised at \$500 or less).

(2) The department shall establish rules to provide for issuance of vehicle appraiser certificates under this section. Rules adopted by the department under this section shall provide for all of the following:

- (a) A method of ascertaining the qualifications and competence of individuals to conduct vehicle appraisals in accordance with the rules of the department and generally accepted methods of appraisal.
- (b) A system for issuance of vehicle appraiser certificates to persons who qualify under the rules of the department.
- (c) Procedures and grounds for revocation or suspension of vehicle appraiser certificates issued under this section if the department determines the person holding the certificate has violated the rules adopted by the department.
- (d) A procedure for renewal of vehicle appraiser certificates issued under this section.

(3) The department may establish rules to adopt educational requirements for issuance or renewal of vehicle appraiser certificates.

(4) Vehicle appraiser certificates issued under this section are subject to the following:

- (a) A certificate shall expire three years from the date of issuance unless renewed according to the rules of the department.
- (b) The department shall not issue a vehicle appraiser certificate to a person until the person has paid the fee for issuance of a vehicle appraiser certificate under ORS 822.700 (Certification fees).
- (c) The department shall not renew a vehicle appraiser certificate issued under this section until the holder has paid the fee for renewal of a vehicle appraiser certificate under ORS 822.700 (Certification fees). *[Formerly 819.230; 2009 c.371 §17]*

ORS 819.482 Acting as Vehicle Appraiser without Certificate

(1) A person commits the offense of acting as a vehicle appraiser without a certificate if the person does not hold a vehicle appraiser certificate issued under ORS 819.480 (Vehicle appraiser certificate) and the person, for consideration, issues an opinion as to the value of a vehicle.

(2) This section does not apply to:

- (a) A person who holds a vehicle dealer certificate issued or renewed under ORS 822.020 (Issuance of certificate) or 822.040 (Privileges granted by certificate) and who appraises vehicles in the operation of the vehicle dealer's business;
- (b) A person from another jurisdiction who holds a vehicle appraiser certificate requiring qualifications substantially similar to qualifications required for the certification of a vehicle appraiser in this state;
- (c) An insurance adjuster authorized to do business under ORS 744.515 (Exemptions from adjuster licensing requirement) or 744.521 (Powers of director to issue, renew, amend, suspend and reinstate licenses); or

(d) A person licensed or certified to appraise real estate under ORS 674.310 (Duties and powers of board) and who appraises the value of manufactured structures.

(3) The offense described in this section, acting as a vehicle appraiser without a certificate, is a Class A violation. [2007 c.630 §2; 2019 c.151 §42]

ORS 822.205 Certificate Qualifications

The Department of Transportation shall issue a towing business certificate to any person if the person meets all of the following requirements to the satisfaction of the department:

(1) The person must complete an application in a form and in the manner established by the department by rule.

(2) The person must maintain insurance in amounts and providing coverage of the type required for motor carriers under ORS chapter 825 and deliver a certificate of insurance to the department.

(3) The certificate of insurance required under subsection (2) of this section must:

(a) Be issued by an insurance company licensed to do business in this state;

(b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;

(c) Contain the policy number; and

(d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.

(4) The person must maintain insurance providing \$50,000 coverage for cargo transported by the person and deliver a certificate of insurance to the department. An applicant is not required to comply with this subsection if the applicant tows or recovers only vehicles that are owned by the applicant.

(5) The person must maintain vehicles used by the person for the purposes of towing or recovering services so that they meet minimum safety standards established by the department by rule. The department may accept the certification of the person as evidence of compliance with this subsection or may require other evidence, as the department determines appropriate.

(6) The certificate of insurance required under subsection (4) of this section must:

(a) Be issued by an insurance company licensed to do business in this state;

(b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;

(c) Contain the policy number; and

(d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.

(7) The person must pay the fee required under ORS 822.700 (Certification fees) for issuance of a towing business certificate. [1983 c.338 §813; 1985 c.16 §412; 1985 c.400 §7; 1993 c.751 §86; 2007 c.538 §16]

ORS 822.215 Grounds for Denial, Suspension, Revocation or Refusal of Certificate Disciplinary Action

(1) The Department of Transportation may deny or refuse to issue any towing business certificate under ORS 822.205 (Certificate) or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:

- (a) Used fraud or deception in securing the certificate.
- (b) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This paragraph does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.
- (c) Used vehicles for the purposes of towing or recovering services that did not meet the minimum safety standards established by the department.
- (d) Failed to display special towing business registration plates, stickers or indicia or identification devices for proportionally registered tow vehicles authorized under ORS 805.200 (Plates and other devices with special designs) on each vehicle used to tow or recover vehicles.
- (e) Failed to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205 (Certificate).
- (f) Failed to obtain any permits or authority required under any provision of ORS chapter 825 or rules adopted thereunder.
- (g) Violated any provision of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) or 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature) or a rule adopted under ORS 822.265 (Rulemaking authority).

(2) After receiving an order from the State Board of Towing under ORS 822.280 (Denial, suspension, revocation or refusal of towing business certificate), the department shall impose the disciplinary action requested by the board. *[1983 c.338 §814; 1991 c.284 §30; 1993 c.741 §145; 2007 c.538 §17; 2017 c.480 §19; 2021 c.578 §13]*

ORS Chapter 87 - Liens

For Informational Purposes Only

The Oregon State Board of Towing does not have authority or jurisdiction for liens issued or required under ORS Chapter 87 – EXCEPT when a tow/recovery operator or business knowingly makes a false or fraudulent statement on lien documentation in violation of ORS 822.605, or fails to comply with the lien processes and requirements under ORS Chapter 87.

Questions regarding Oregon's lien requirements and processes should be directed to legal counsel, DMV Business Services, lien services, the local County Court, or others with familiar with Oregon's lien laws.

LIENS GENERALLY

ORS 87.142 Definitions for ORS 87.142 to 87.490 and 87.910.

As used in ORS 87.142 to 87.490 and 87.910, unless the context otherwise requires:

- (1) "Animal" means any mammal, bird, fish, reptile, amphibian or insect.
- (2) "Chattel" includes movable objects that are capable of being owned, but does not include personal rights not reduced to possession but recoverable by an action at law or suit in equity, money, evidence of debt and negotiable instruments.
- (3) "Electric cooperative" means a cooperative corporation organized under ORS chapter 62 the principal business of which is the construction, maintenance and operation of an electric transmission and distribution system for the benefit of the members of that cooperative corporation and which has no other principal business or purpose.
- (4) "Electric utility" means a corporation engaged in distributing electricity, directly or indirectly, to or for the public and regulated by the Public Utility Commission under ORS chapter 757.
- (5) "Excavation" means a shaft, tunnel, incline, adit, drift or other excavation designed for the use, working or draining of a mine.
- (6) "Fair market value" means, with respect to a chattel sold at a foreclosure sale under this chapter, the price of chattels of the same kind and condition prevailing in the county of sale at the time of sale.
- (7) "Fungible chattels" means chattels of which any unit is the equivalent of any other unit.
- (8) "Improvement" means a road, tramway, trail, flume, ditch, pipeline, building, structure, superstructure or boardinghouse used for or in connection with the working or development of a mine.
- (9) "Irrigation" includes the use of canals, ditches, pipes, pumps, spraying apparatus and other mechanical devices to water land artificially.
- (10) "Mine" means a mine, lode, mining claim or deposit that contains or may contain coal, metal or mineral of any kind.
- (11) "Mortgagee" means a person who has a valid subsisting mortgage of record or trust deed of record securing a loan upon any real property to be charged with a lien under ORS 87.352 to 87.362.
- (12) "Nursery stock" means fruit trees, fruit-tree stock, nut trees, grapevines, fruit bushes, rose bushes, rose stock, forest and ornamental trees, and shrubs both deciduous and evergreen, florists' stock and cuttings, scions and seedlings of fruit or ornamental trees and shrubs, and all other fruit-bearing plants and parts thereof and plant products for propagation or planting.
- (13) "Owner" includes:

- (a) A person who has title to a chattel or real property;
- (b) A person who is in possession of a chattel or real property under an agreement for the purchase thereof, whether the title thereto is in the person or the vendor of the person; or
- (c) A person who is in lawful possession of a chattel or real property.
- (14) "Person" includes individuals, corporations, associations, firms, partnerships and joint stock companies.
- (15) "Security interest" means an interest in a chattel reserved or created by an agreement that secures payment or performance of an obligation as more particularly defined by ORS 71.2010 (2)(ii).
- (16) "Timbers" means sawlogs, spars, piles, felled logs and other wood growth that has been cut or separated from land.
- (17) "Wood products" includes lumber, slabwood, plywood and other wood products produced from timbers. The term does not include paper or products made from paper. [1975 c.648 §1; 1999 c.940 §1; 2001 c.301 §5; 2009 c.181 §104]

ORS 87.146 Priorities of Liens.

- (1) Except as provided in subsection (2) of this section:
 - (a) Liens created by ORS 87.152 to 87.162 have priority over all other liens, security interests and encumbrances on the chattel subject to the lien, except that taxes and duly perfected security interests existing before chattels sought to be subjected to a lien created by ORS 87.162 are brought upon the leased premises have priority over that lien.
 - (b) Liens created by ORS 87.216 to 87.232 have equal priority. When a judgment is given foreclosing two or more liens created by ORS 87.216 to 87.232 upon the same chattel, the debts secured by those liens shall be satisfied pro rata out of the proceeds of the sale of the property.
 - (c) With regard to the same chattel, a lien created by ORS 87.216 to 87.232 has priority over a nonpossessory chattel lien created by any other law.
 - (d) With regard to the same chattel, a lien created by ORS 87.216 is junior and subordinate to a duly perfected security interest in existence when the notice of claim of such lien is filed under ORS 87.242.
 - (e) With regard to the same chattel, a lien created by ORS 87.222 to 87.232 has priority over a security interest created under ORS chapter 79.
- (2) (a) A personal property tax lien, a chattel lien claimed by the State of Oregon, its agencies or any political subdivision thereof, and a chattel lien claimed by a state officer or employee during the course of official duty pursuant to law have priority over a lien created by ORS 87.152 to 87.162 and 87.216 to 87.232.
- (b) A duly perfected security interest of a lessor in any portion of crops or animals to pay or secure payment of rental of the premises upon which those crops or animals are grown, not to exceed 50 percent of those crops or animals, shall not be subject to the lien created by ORS 87.226. [1975 c.648 §2; 2003 c.576 §335]

POSSESSORY CHATTEL LIENS

ORS 87.152 Possessory Lien for Labor or Material Expended on Chattel

- (1) Except as provided in subsections (2) and (3) of this section, a person that makes, alters, repairs, transports, stores, pastures, cares for, provides services for, supplies materials for or

performs labor on a chattel at the request of the owner or lawful possessor of the chattel has a lien on the chattel in the possession of the person for the reasonable or agreed charges for labor, materials or services of the person, and the person may retain possession of the chattel until the charges are paid.

(2) (a) Except as provided in subsection (3) of this section, a person may not create, attach, assert or claim a possessory lien on a motor vehicle, as defined in ORS 801.360 ("Motor vehicle."), unless the person performs a service that complies with ORS 646A.480 (Definitions for ORS 646A.480 to 646A.495) to 646A.495 (Owner designee) and that involves making, altering, repairing, transporting, storing, providing services for, supplying material for or performing labor in connection with the motor vehicle and the person:

(A) Is a franchised motor vehicle dealership, as defined in ORS 650.120 (Definitions for ORS 650.120 to 650.170) (5), or a manufacturer, as defined in ORS 650.120 (Definitions for ORS 650.120 to 650.170), of the motor vehicle;

(B) Holds a towing business certificate that the Department of Transportation issued under ORS 822.205 (Certificate), provided that the person creates, attaches, asserts or claims a possessory lien only for transporting or storing the motor vehicle; or

(C) Creates, attaches, asserts or claims the lien against an abandoned motor vehicle.

(b) A person, other than a person that is described in paragraph (a)(A), (B) or (C) of this subsection, shall have in effect a surety bond or irrevocable letter of credit in the amount of \$20,000 before, and shall maintain the surety bond or irrevocable letter of credit during, any period in which the person creates, attaches, asserts or claims a possessory lien on a motor vehicle after making, altering, repairing, transporting, storing, performing services for, supplying materials for or performing labor in connection with the motor vehicle.

(c) (A) The surety bond and the irrevocable letter of credit described in paragraph (b) of this subsection must be issued, respectively, by a corporate surety that is authorized to transact business in this state and by a financial institution, as defined in ORS 706.008 (Additional definitions for Bank Act). The corporate surety or the financial institution, as appropriate, shall notify the Department of Transportation of any cancellation of the surety bond or irrevocable letter of credit. The corporate surety remains liable under the surety bond and the financial institution remains obligated under the irrevocable letter of credit until the department receives the notice or until the date of cancellation specified in the notice, whichever is later.

(B) A surety bond or irrevocable letter of credit described in paragraph (b) of this subsection must be:

(i) Executed to the State of Oregon;

(ii) Approved by the Attorney General as to form;

(iii) Filed with and held by the department; and

(iv) Conditioned such as to compensate parties damaged as a result of a use of a possessory lien in connection with a misrepresentation, a fraud or a violation of a duty set forth in ORS 646A.480 (Definitions for ORS 646A.480 to 646A.495) to 646A.495 (Owner designee).

(C) The person described in paragraph (b) of this subsection as subject to the requirement to have in effect a surety bond or irrevocable letter of credit must certify in writing to the department each year that the surety bond or irrevocable letter of credit remains in effect. If another person obtains a recovery against the surety bond or irrevocable letter of credit, the person shall file with the department not later than three business days after the date of the recovery a new surety bond or irrevocable letter of credit in the amount specified in paragraph (b) of this subsection.

- (3) (a) As used in this subsection:
- (A) "Auction company" means an entity:
- (i) That operates throughout the United States;
 - (ii) That holds a vehicle dealer certificate that the Department of Transportation issued or renewed under ORS 822.020 (Issuance of certificate) or 822.040 (Privileges granted by certificate), or a dismantler certificate that the department issued or renewed under ORS 822.110 (Dismantler certificate) or 822.125 (Privileges granted by certificate); and
 - (iii) The primary activity of which, in this state, consists of disposing of totaled motor vehicles.
- (B) "Motor vehicle" has the meaning given that term in ORS 801.360 ("Motor vehicle.").
- (b) An auction company has a lien on a motor vehicle that the auction company possesses and stored on premises the auction company owns or controls. The auction company may title the motor vehicle in the name of:
- (A) The auction company, if the motor vehicle has remained unclaimed on the auction company's premises for more than 30 days;
 - (B) The insurance company that directed the auction company to take possession of the motor vehicle; or
 - (C) An organization with an exemption from taxation under section 501(c)(3) of the Internal Revenue Code that directed the auction company to take possession of the motor vehicle.
- (c) ORS 87.166 (Attachment of liens) and 87.172 (Time period before foreclosure allowed) to 87.212 (Liability for improper sale of fungible chattels) do not apply to chattel that is subject to this subsection.
- (4) (a) The owner of a motor vehicle may bring an action to recover from a person that refuses, at the owner's demand and without a valid possessory lien created and attached as provided in subsection (2) or (3) of this section, to release the owner's motor vehicle or restore to the owner title to the owner's motor vehicle if the person changed the title:
- (A) The greater of \$2,000 or an amount equivalent to twice the value of the motor vehicle, up to a maximum amount of \$20,000; and
 - (B) The owner's reasonable costs and attorney fees.
- (b) In addition to the recovery described in paragraph (a) of this subsection, the owner may obtain:
- (A) A judgment that:
 - (i) Directs the Department of Transportation to restore title to the motor vehicle to the owner and to invalidate the title the person obtained; or
 - (ii) Extinguishes the person's interest in the motor vehicle and directs the department to issue title in the name of the plaintiff in the action;
 - (B) A judgment that declares that the person's lien is invalid if the person obtained title to the motor vehicle without complying with this section; and
 - (C) Reimbursement for any fees the owner pays to the department to reissue the title. [1975 c.648 §3; 2018 c.58 §1; 2019 c.56 §1,2; 2019 c.344 §1; 2021 c.218 §1]

ORS 87.166 Attachment of Liens

- (1) Except as provided in subsection (2) of this section, the liens created by ORS 87.152 (Possessory lien for labor or material expended on chattel) to 87.162 (Landlord's lien) attach to the chattels described in those sections when:
- (a) The services or labor are performed or the materials or money are furnished by the lien claimant to the lien debtor; and

(b) The charges for the services or labor performed and materials or money furnished are due and the lien debtor either knows or should reasonably know that the charges are due. [1975 c.648 §6]

ORS 87.172 Time Period Before Foreclosure Allowed

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

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

(b) \$500 or less, must retain the vehicle at least 15 days after the lien attaches to the vehicle before foreclosing the lien. [1975 c.648 §7; 1979 c.401 §1; 1981 c.861 §1; 1983 c.338 §881; 1993 c.326 §9; 1995 c.758 §18; 2005 c.738 §7; 2011 c.399 §2]

ORS 87.176 Fees for Storage of Chattel

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

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

ORS 87.177 Bond or Deposit of Money for Lien for Storage of Chattel

(1) When a lien claimed under ORS 87.152 (Possessory lien for labor or material expended on chattel) to 87.162 (Landlord's lien) is for the storage of a chattel and the amount of the lien claimed is \$750 or more, the lien debtor, or any other interested person, may file with the

recording officer of the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor a bond executed by a corporation authorized to issue surety bonds in the State of Oregon to the effect that the principal or principals on the bond shall pay the amount of the claim and all costs and attorney fees that are awarded against the chattel on account of the lien. The bond shall be in an amount not less than 200 percent of the amount claimed under the lien for the storage of the chattel.

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

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

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

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

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

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

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

ORS 87.178 Foreclosure After Filing of Bond or Deposit of Money

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

(2) When a bond is filed or money is deposited and, in a suit to enforce the lien for which the filing or deposit is made, the court allows the lien, the lien shall be satisfied out of the bond or money. The court shall include as part of its judgment an order for the return to the person who deposited the money of any amount remaining after the lien for the storage of the chattel is satisfied.

(3) When a bond is filed or money is deposited and, in a suit to enforce the lien for which the filing or deposit is made, the court disallows the lien, the court shall include as part of its judgment an order for the return of the bond or money to the person who filed the bond or deposited the money. [2003 c.193 §5]

ORS 87.179 Determination of Adequacy of Bond

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

(2) Not later than two days after the filing of the petition with the court, the lien claimant shall send a notice of the filing and a copy of the petition by registered or certified mail to the person who filed the bond. After a hearing, if the court determines that the bond is inadequate for one or more of the reasons described by the lien claimant, the court shall order such action as shall make the bond adequate to protect the claim of lien. [2003 c.193 §6]

ORS 87.181 Release of Lien or Return of Money

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

(1) The person who filed the bond or deposited the money presents a certified copy of a court's order for the release of the bond or all or some of the money to that person; or

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

ORS 87.182 Effect of Prior Security Interest on Method of Foreclosure

(1) When a lien created by ORS 87.162 (Landlord's lien) is subordinate to a prior duly perfected security interest in a chattel as provided in ORS 87.146 (Priorities of liens), the lien created by ORS 87.162 (Landlord's lien) shall be foreclosed by suit as provided in ORS chapter 88.

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

ORS 87.186 Location of Foreclosure Sale

Foreclosure of liens created by ORS 87.152 (Possessory lien for labor or material expended on chattel) to 87.162 (Landlord's lien) by public sale shall occur in the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor. [1975 c.648 §11]

ORS 87.192 Notice of Foreclosure Sale to Lien Debtor

(1) (a) Before a lien claimant forecloses by sale a lien created under ORS 87.152 (Possessory lien for labor or material expended on chattel) to 87.162 (Landlord's lien), the lien claimant shall give notice of the foreclosure sale to the lien debtor by first class mail with certificate of mailing, registered mail or certified mail sent to the lien debtor at the lien debtor's last-known address. The lien claimant shall give notice of the foreclosure sale to the lien debtor:

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

(B) If the lien is for the cost of removing, towing or storing a vehicle that a person who holds a certificate issued under ORS 819.480 (Vehicle appraiser certificate) has appraised at a value of \$1,000 or less, at least 15 days before the foreclosure sale.

(b) If the chattel to be sold at a foreclosure sale is chattel for which the Department of Transportation has issued a certificate of title under ORS 803.045 (Issuance of title), for which the State Marine Board requires a certificate of title under ORS 830.810 (Certificate of title) or for which the Oregon Department of Aviation requires a certificate of registration under ORS 837.040 (Persons required to register aircraft), the lien claimant shall include with the notice described in paragraph (a) of this subsection a copy of an invoice, work or repair order, authorization for towing, official form that authorizes a law enforcement agency to impound the chattel or any other record or document that is evidence of the basis for the lien.

(c) If a lien claimant fails to give notice in accordance with this subsection to a lien debtor concerning chattel described in paragraph (b) of this subsection, the lien claimant is liable to the lien debtor for a sum equal to the fair market value of the chattel sold at the foreclosure sale. The lien debtor may bring an action to recover the sum and reasonable attorney fees.

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

subsection, in a public place at the location where the lien claimant obtained possession of the chattel to be sold from the lien debtor. The following apply to notice under this subsection:

(a) The lien claimant shall give notice under this subsection not later than the time required for notice to a lien debtor under subsection (1) of this section.

(b) This subsection does not require the lien claimant to post notice at the location where the lien claimant obtained the chattel if the chattel is a chattel for which the Department of Transportation has issued a certificate of title under ORS 803.045 (Issuance of title), for which the State Marine Board requires a certificate of title under ORS 830.810 (Certificate of title) or for which the Oregon Department of Aviation requires a certificate of registration under ORS 837.040 (Persons required to register aircraft).

(3) If the chattel to be sold at a foreclosure sale is something other than an abandoned vehicle and has a fair market value of \$1,000 or more, or if the chattel to be sold is an abandoned vehicle and has a fair market value of \$2,500 or more, the lien claimant, in addition to the notice required by subsection (2) of this section, shall have a notice of foreclosure sale printed once a week for two successive weeks in a daily or weekly newspaper, as defined in ORS 193.010 (Definitions for ORS 193.010 and 193.020), published in the county in which the sale is held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010 (Definitions for ORS 193.010 and 193.020), generally circulated in the county in which the sale is held.

(4) The notice of foreclosure sale required under this section must contain a particular description of the property to be sold, the name of the owner or reputed owner of the property, the amount due on the lien, the time and the place of the sale and the name of the person foreclosing the lien. *[1975 c.648 §10; 1981 c.861 §2; 1983 c.436 §1; 1983 c.338 §882; 1993 c.326 §10; 1995 c.758 §19; 2005 c.738 §8; 2014 c.65 §1]*

ORS 87.196 Notice of Foreclosure Sale to Secured Parties

(1) (a) A lien claimant that forecloses by sale a lien created under ORS 87.152 (Possessory lien for labor or material expended on chattel) to 87.162 (Landlord's lien) shall give notice of the foreclosure sale by first class, registered or certified mail. The following apply:

(A) The lien claimant shall give notice to all persons that have filed a financing statement in the office of the Secretary of State, or in the office of the appropriate county officer of the county in which the sale is held, to perfect a security interest in the chattel to be sold.

(B) Notwithstanding subparagraph (A) of this paragraph, if the chattel to be sold at the foreclosure sale is a chattel, other than part of the motor vehicle inventory of a dealer issued a vehicle dealer certificate under ORS 822.020 (Issuance of certificate), for which the Department of Transportation has issued a certificate of title under ORS 803.045 (Issuance of title), for which the State Marine Board requires a certificate of title under ORS 830.810 (Certificate of title) or for which the Oregon Department of Aviation requires a certificate of registration under ORS 837.040 (Persons required to register aircraft), the lien claimant needs to give notice only to persons that the certificate of title or certificate of registration indicates have a security interest or lien in the chattel.

(C) The lien claimant shall give notice under this paragraph at least 30 days before the foreclosure sale, but if the lien claimant claims a lien under ORS 87.152 (Possessory lien for labor or material expended on chattel), the lien claimant shall give the notice required by this subsection:

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

- (ii) Not later than the 30th day after the date on which the services provided are completed, if no storage charges are imposed; or
 - (iii) At least 15 days before the foreclosure sale if the lien is for the cost of removing, towing or storing a vehicle that a person who holds a certificate issued under ORS 819.480 (Vehicle appraiser certificate) has appraised at a value of \$1,000 or less.
 - (b) A lien claimant that gives notice of a foreclosure sale for chattel described in paragraph (a)(B) of this subsection shall include with the notice a copy of an invoice, work or repair order, authorization for towing, official form that authorizes a law enforcement agency to impound the chattel or any other record or document that is evidence of the basis for the lien.
- (2) A person who is entitled to receive notice under subsection (1) of this section may discharge the lien and preserve the person's security interest in the chattel by paying the lien claimant the amount of the lien claim and reasonable expenses the lien claimant actually incurs in foreclosing the lien claim. If the person does not discharge the lien before the day of the foreclosure sale, the foreclosure sale extinguishes the person's security interest in the chattel even if the person does not receive notice under subsection (1) of this section.
- (3) If a lien claimant does not give notice in accordance with subsection (1) of this section to a person that claims a security interest or lien on the chattel sold at a foreclosure sale, the lien claimant is liable to the person for a sum equal to the fair market value of the chattel sold at the foreclosure sale or the amount due to the person under the security agreement or lien at the time of the foreclosure sale, whichever amount is less. The secured party or other lien claimant may recover the sum and reasonable attorney fees by an action at law. *[1975 c.648 §14; 1981 c.861 §3; 1983 c.338 §883; 1993 c.326 §11; 1995 c.758 §20; 2005 c.86 §1; 2005 c.738 §9; 2014 c.65 §2; 2017 c.17 §3]*

ORS 87.202 Statement of Account of Foreclosure Sale

- (1) A person that forecloses a lien created under ORS 87.152 (Possessory lien for labor or material expended on chattel) to 87.162 (Landlord's lien) by sale shall file a statement of account that the person verifies by oath with the recording officer of the county in which the sale took place if:
- (a) The chattel sold at the foreclosure sale has a fair market value of \$1,000 or more; or
 - (b) The chattel sold at the foreclosure sale is an animal that bears a brand or other mark recorded with the State Department of Agriculture under ORS chapter 604.
- (2) The statement of account required under subsection (1) of this section must show:
- (a) The amount of the lien claim and the cost of foreclosing the lien;
 - (b) A copy of the published or posted notice of foreclosure sale;
 - (c) The amount received for the chattel sold at the sale; and
 - (d) The name of each person that received proceeds from the foreclosure sale as described in ORS 87.206 (Disposition of proceeds of foreclosure sale) and the amount each person received.
- (3) A person that files a statement of account under this section shall send a copy of the statement by registered or certified mail to the last-known address of the owner of the chattel sold at the foreclosure sale. If the chattel sold at a foreclosure sale is an animal that bears a brand or other mark recorded with the State Department of Agriculture under ORS chapter 604,

a person that files a statement of account under this section shall send a copy of the statement to the State Department of Agriculture. [1975 c.648 §13; 2005 c.86 §2; 2013 c.206 §1]

ORS 87.206 Disposition of Proceeds of Foreclosure Sale

(1) The proceeds of a sale to foreclose a lien created by ORS 87.152 (Possessory lien for labor or material expended on chattel) to 87.162 (Landlord's lien) shall be applied in the following order:

- (a) To the payment of the reasonable and necessary expenses of the sale;
- (b) To satisfy the indebtedness secured by the lien under which the sale is made;
- (c) Subject to subsection (2) of this section, to satisfy the indebtedness secured by any subordinate lien or security interest, in order of priority, in the chattel; and
- (d) To the treasurer of the county in which the foreclosure sale is made. The payment to the treasurer must be accompanied by a copy of the statement of account described in ORS 87.202 (Statement of account of foreclosure sale).

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

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

ORS 87.212 Liability for Improper Sale of Fungible Chattels

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

ORS 87.216 Nonpossessory Lien for Labor or Material Expended on Chattel

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

ORS 87.236 Attachment of Liens

(1) The liens created by ORS 87.216 (Nonpossessory lien for labor or material expended on chattel) to 87.232 (Fishing lien and fish worker's lien) attach to the chattels described in those sections. [1975 c.648 §20; 1981 c.674 §1; 1985 c.469 §3]

ORS 87.242 Filing Notice of Claim of Lien

(1) A person claiming a lien created by ORS 87.216 (Nonpossessory lien for labor or material expended on chattel), 87.222 (Logger's, woodworker's and timberland owner's lien) or 87.232 (Fishing lien and fish worker's lien) shall file a written notice of claim of lien with the recording officer of the county in which the lien debtor resides, or, if the lien debtor is a business, the county in which the lien debtor has its principal place of business, not later than 60 days after the close of the furnishing of the labor, services or materials. A person claiming a lien created by ORS 87.226 (Agricultural services lien) shall file a written notice of claim of lien with the Secretary of State not later than 75 days after the close of the furnishing of the labor, services or materials. A person claiming a lien created by ORS 87.705 (Agricultural produce lien) shall file a written notice of claim of lien with the Secretary of State not later than 45 days after the close of the furnishing of the labor, services or materials. A person claiming a lien created by ORS 87.755 (Grain producer's lien) shall file a written notice of claim of lien with the Secretary of State not later than 180 days after the close of the furnishing of the labor, services or materials. The Secretary of State shall include a notice of claim of lien that is filed with the secretary under this subsection in the index maintained by the secretary for filing financing statements pursuant to ORS chapter 79.

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

- (a) A true statement of the lien claimant's demand after deducting all credits and offsets;
- (b) The name of the owner of the chattel to be charged with the lien;
- (c) A description of the labor, services or materials provided by the lien claimant for the benefit of the owner of the chattel to be charged with the lien;
- (d) A description of the chattel to be charged with the lien sufficient for identification;
- (e) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of notice of claim of lien;
- (f) The date on which payment was due to the lien claimant for labor, services or materials;
- (g) The terms of extended payment; and
- (h) Such other information as the Secretary of State may require for the written notice of claim of lien created by ORS 87.226 (Agricultural services lien).

(3) If the person entitled to a lien under ORS 87.216 (Nonpossessory lien for labor or material expended on chattel) to 87.232 (Fishing lien and fish worker's lien) does not properly file a notice of claim of lien within the time required by subsection (1) of this section, the person waives the right to the lien. [1975 c.648 §21; 1985 c.469 §4; 1987 c.297 §1; 2001 c.301 §7; 2007 c.71 §19; 2011 c.359 §1]

ORS 87.246 Recording

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

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

- (a) Be in a form prescribed by the Secretary of State; and
- (b) Be maintained as public records for a period of time established by the Secretary of State.

(3) Fees for filing notices and requests for copies of such notices shall be established by the Secretary of State under ORS 177.130. Fees described in this subsection shall be nonrefundable.

[1975 c.648 §22; 1987 c.297 §2; 1999 c.464 §3]

ORS 87.252 Notice to Owner and Holders of Security Interests

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

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

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

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

- (a) The holder of the security interest does not receive notice because of the lien claimant's failure to comply with subsection (2) of this section; and
- (b) The holder of the security interest duly perfects the interest before the date on which the lien claimant files a notice of claim of lien. [1975 c.648 §23; 1985 c.469 §5; 1993 c.352 §1; 2001 c.301 §8]

ORS 87.256 Limitation on Extent of Liens.

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

ORS 87.262 Foreclosure.

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

ORS 87.266 Duration of Liens.

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

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

ORS 87.272 Petition for foreclosure without Suit.

A person claiming a lien created by ORS 87.216 to 87.232 may obtain an order for the foreclosure of the lien by advertisement and sale by filing with the clerk of the court of the county in which the chattel is then located and from which that order is sought a sworn petition requesting an order for foreclosure of the lien by advertisement and sale and showing, to the best knowledge, information and belief of the lien claimant:

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

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

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

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

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

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

ORS 87.276 Evidence Admissible

(1) The court shall consider the petition filed under ORS 87.272 and may consider other evidence, including, but not limited to, an affidavit, deposition, exhibit or oral testimony.

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

ORS 87.282 Waiver of Right to Hearing before Filing of Petition.

The court shall order that the lien claimant's lien be foreclosed by advertisement and sale if the court finds:

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

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

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

ORS 87.288 Show Cause Order

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

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

(3) The order shall:

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

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

ORS 87.296 Waiver of Right to Hearing after Issuance of Show Cause Order

If, after service of the order issued under ORS 87.288 (1), the lien debtor by a writing executed by or on behalf of the lien debtor after service of the order expressly declares that the lien debtor is aware that the lien debtor has the right to be heard, that the lien debtor does not want to be heard, that the lien debtor expressly waives the right to be heard, that the lien debtor understands that upon the signing by the lien debtor of the writing the court will order the

foreclosure of the lien claimant's lien so that the possession or control of the claimed property will be taken from the lien debtor or another person, the court, without hearing, shall issue the order of foreclosure by advertisement and sale. [1975 c.648 §31]

ORS 87.302 Authority of Court on Sustaining Validity of Lien Claim.

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

ORS 87.306 Foreclosure By Sale without Suit

(1) A lien claimant desiring to foreclose the lien by advertisement and sale shall deliver to the sheriff of the county in which the chattel is then located a certified copy of a court's order issued under ORS 87.282, 87.296 or 87.302 and a copy of the notice of claim of lien, certified by the recording officer of the county where it was filed.

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

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

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

ORS 87.312 Effect of Notice of Foreclosure Sale to Secured Parties

(1) A person who claims a lien or has a security interest in a chattel to be sold at a foreclosure sale and who is notified under ORS 87.306 (2) may discharge the foreclosing lien claimant's lien

and preserve the security interest or lien claim of the person by paying the foreclosing lien claimant the amount of the lien claim and the expenses actually incurred in foreclosing it. If the person does not so discharge the lien before the day of the foreclosure sale, the security interest or lien claim of the person is extinguished.

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

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

ORS 87.316 Disposition of Proceeds of Foreclosure Sale

(1) The proceeds of a sale to foreclose a lien created by ORS 87.216 to 87.232 shall first be applied to the payment of the expenses incurred by the sheriff in obtaining possession of the chattel and advertising and conducting the foreclosure sale, and secondly to the discharge of the lien.

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

ORS 87.322 Effect of Prior Security Interest on Foreclosure of Nonpossessory Lien for Labor or Material Expended on Chattel

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

ORS 87.326 Protection from Theft and Damage of Chattel Subject to Lien

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

ORS 87.332 Injury or Removal of Chattel Subject to Lien

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

ORS 87.336 Costs and Attorney Fees in Foreclosure by Suit

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

ORS 87.342 Bond, Letter of Credit or Deposit of Money to Discharge Lien on Chattel

(1) The owner of a chattel subject to a lien created by ORS 87.216 to 87.232, or any other interested person, may file with the recording officer of the county in whose office the claim of lien is filed a bond executed by a corporation authorized to issue surety bonds in the State of Oregon to the effect that the owner of the chattel against which the lien is claimed shall pay the amount of the claim and all costs and attorney fees which are awarded against the chattel on account of the lien. The bond shall be in an amount not less than 150 percent of the amount claimed under the lien, and must be filed prior to the commencement of a foreclosure proceeding by the lien claimant.

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

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

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

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

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

ORS 87.346 Filing Certificate of Lien Satisfaction upon Payment of Claim

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

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

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

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

- (a) The date and location where the claim of lien was filed with the Secretary of State;
- (b) That the lien has expired and is discharged because no suit to foreclose or proceeding under ORS 87.272 to 87.306 has been initiated with respect to such lien claim; and
- (c) That the person filing such certificate has personally contacted the clerk of the circuit court in such county to determine that no suit to foreclose or proceeding under ORS 87.272 to 87.306 has been filed prior to the expiration of the time period set forth in ORS 87.266 (2).

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

MISCELLANEOUS PROVISIONS

ORS 87.910 Cost of Preparing Lien Notice.

A person who files a notice or claim of lien under this chapter may add to the amount of the claim, as contained in the notice, the amount of fees actually paid for the recording or filing of the lien notice, and such amount thereupon shall become part of the lien against the property described in the notice. *[Amended by 1975 c.648 §52; 1981 c.898 §47]*

ORS 87.920 Recording of Document not to Create Lien

Except where filing of the document is specifically required or authorized by statute, no document filed for recording or otherwise with any public officer in this state before or after October 15, 1983, shall create a lien or encumbrance upon or affect the title to the real or personal property of any person or constitute actual or constructive notice to any person of the information contained therein. *[1983 c.763 §62]*

ORS 87.930 Secretary of State to Furnish List of Persons who have Filed Financing Statement

If the Secretary of State receives notice of a lien created under ORS 87.226, 87.705 or 87.755, the Secretary of State, upon request, shall furnish the person who filed the lien with a list of persons who have filed a financing statement under ORS 79.0501 that perfects a security interest in the inventory, proceeds or accounts receivable of the lien debtor or purchaser. The list must include:

- (1) The name and address of the secured party for each statement or notice;
- (2) The filing number and date of filing for the financing statement in the index maintained by the Secretary of State; and
- (3) Other information that the Secretary of State considers necessary or proper. *[2001 c.301 §3; 2007 c.71 §22]*