

Construction Lien Workflow Checklist (OR)

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A Checklist outlining the steps for perfecting, enforcing, and releasing a statutory construction lien arising from the improvement of privately owned residential and commercial real property in Oregon. This Checklist also covers preliminary notice requirements and a property owner's protections against lien claims.

A construction lien (also known as a mechanic's lien or materialman's lien) is used by a contractor, subcontractor, laborer, supplier, equipment lessor, or design professional (claimant) to secure payment for the labor or services it performs, or the materials, equipment, or supplies it furnishes, to improve real property (lienable work).

The Oregon Construction Lien Law (CLL) governs construction liens on privately owned real property in Oregon (Or. Rev. Stat. §§ 87.001 to 87.093). For a general discussion of Oregon construction liens, see Practice Note, Construction Liens in Practice (OR) ([W-017-5308](#)).

BEFORE BEGINNING A PROJECT

CONFIRM EACH CONTRACTOR IS LICENSED

Verify each contractor has a valid license with all proper endorsements from the Oregon Construction Contractors Board (CCB):

- At the time the contractor bids or enters into a contract.
- Continuously while providing lienable work.

For more details on contractor licensing in Oregon, see Practice Note, Construction Liens in Practice (OR): Contractors, Subcontractors, and Construction Agents ([W-017-5308](#)) and State Q&A, Construction Laws and Customs: Oregon ([W-010-5605](#)).

SATISFY THE ORIGINAL CONTRACTOR'S PRELIMINARY REQUIREMENTS (RESIDENTIAL PROJECT)

- Ensure each original contractor (for example, a prime or general contractor) has a written contract with the property owner if the original contractor performs lienable work:

- to construct, improve, or repair a residential structure or zero-lot-line dwelling (such as a townhouse); and
- for an aggregate price exceeding \$2,000. (Or. Rev. Stat. §§ 87.037 and 701.305(1).)
- If a written contract is required, ensure the original contractor provides the owner with a consumer protection notice and a notice of procedure in the required forms on or before entering into the contract (Or. Rev. Stat. § 701.330).
- If an original contractor provides lienable work under a residential construction or improvement contract (including work involving a structure or land adjacent or appurtenant to a residential dwelling) with an aggregate contract price exceeding \$2,000, confirm the original contractor delivers an information notice about construction liens (Information Notice to Owner) in the required manner to:
 - the owner or the owner's agent (other than a licensed contractor) when signing the contract; and
 - the first purchaser of the property if the property is sold before or within the 75-day period immediately following the completion of construction. (Or. Rev. Stat. § 87.093.)
- Confirm the original contractor maintains proof of delivery of all notices for two years after the contract is signed and preferably at least two years after the original contractor finishes its lienable work (OAR 812-012-0130(2)).

For more information, see Practice Note, Construction Liens in Practice (OR): Preliminary Requirements for Original Contractors (Residential Project) ([W-017-5308](#)).

EVALUATE THE SUBJECT PROPERTY

Consider ordering a title search (foreclosure guarantee) to determine:

- The subject property's legal description.
- The extent of the owner's interest in the property.
- Whether there are any mortgages, deeds of trust (trust deeds), or other liens or encumbrances against the property.

For more information, see Practice Note, Construction Liens in Practice (OR): Property Subject to a Construction Lien ([W-017-5308](#)).

WITHIN EIGHT DAYS AFTER STARTING WORK**SERVE A NOTICE OF RIGHT TO A LIEN**

- Serve the owner with a notice of right to a lien (pre-lien notice) in the required form if providing lienable work for:
 - a residential project unless the claimant performs the work at the owner's request; or
 - a commercial improvement only if the claimant provides materials without labor.
(Or. Rev. Stat. §§ 87.021 and 87.023.)
- Consider serving the pre-lien notice on the owner within eight days after starting lienable work. Although the claimant may issue a pre-lien notice at any time, the notice protects the claimant's lien rights only for work provided after the date eight days before serving the notice. (Or. Rev. Stat. § 87.021(1).)
- Preserve the claimant's lien priority by serving a pre-lien notice on any mortgagee (including a trust deed beneficiary) within eight days after the claimant delivers materials or supplies (Or. Rev. Stat. § 87.025(3); see Practice Note, Construction Liens in Practice (OR): Priority of Construction Liens ([W-017-5308](#))).
- Provide all pre-lien notices by:
 - personal delivery; or
 - registered or certified mail.
(Or. Rev. Stat. § 87.018(1).)
- Respond in writing within 15 days after receiving a demand for more information from the owner or a mortgagee, if applicable (Or. Rev. Stat. §§ 87.025(4) and 87.027).
- Exclude weekends and holidays when calculating the time for serving a pre-lien notice or responding to a demand for information (Or. Rev. Stat. §§ 87.021(1), 87.025(4), and 87.027).

For more details on serving a pre-lien notice, see Practice Note, Construction Liens in Practice (OR): Serve a Notice of Right to a Lien ([W-017-5308](#)).

WITHIN 75 DAYS AFTER COMPLETING WORK OR CONSTRUCTION**RECORD A CLAIM OF LIEN**

- Record a claim of lien (lien claim) in each county where the property is located within 75 days after:
 - the earlier of the date the claimant finishes its lienable work or the completion of construction, if providing labor, materials, or equipment; or
 - the completion of construction for all other lienable work.
(Or. Rev. Stat. §§ 87.035(1), (2) and 87.045; see Practice Note, Construction Liens in Practice (OR): Post a Notice of Completion (Optional) and Record a Claim of Lien ([W-017-5308](#))).
- Ensure the lien claim:
 - includes the information required by statute; and
 - is verified and acknowledged.
(Or. Rev. Stat. § 87.035(3), (4).)

- Confirm the claimant separately itemizes its costs for:
 - labor (including charges for liability and industrial accident insurance premiums and social security and unemployment compensation payments, if applicable);
 - materials; and
 - rented equipment (to the extent of its reasonable rental value).

For additional guidance on recording a lien claim, see Practice Note, Construction Liens in Practice (OR): Perfecting a Construction Lien ([W-017-5308](#)).

SEND A NOTICE OF FILING CLAIM OF LIEN

Send a notice of filing claim of lien (notice of lien) by registered or certified mail to the owner and any mortgagee (or trust deed beneficiary) within 20 days after filing the lien claim for recording. Attach a copy of the lien claim. (Or. Rev. Stat. § 87.039; see Practice Note, Construction Liens in Practice (OR): Send a Notice of Filing Claim of Lien ([W-017-5308](#))).

WITHIN 120 DAYS AFTER RECORDING THE LIEN CLAIM**SERVE A NOTICE OF INTENT TO FORECLOSE**

- Provide a notice of intent to foreclose (notice of intent) to the owner and any mortgagee (or trust deed beneficiary):
 - either by personal delivery or by registered or certified mail; and
 - at least ten days before filing a foreclosure action to enforce the lien claim.
- Consider combining the notice of intent with the notice of lien to meet the statutory deadline.
- Respond within five days after receiving a demand for additional information from the owner, if applicable.

(Or. Rev. Stat. § 87.057; see Practice Note, Construction Liens in Practice (OR): Serve a Notice of Intent to Foreclose ([W-017-5308](#))).

FILE AND SERVE A FORECLOSURE ACTION

- Commence a foreclosure action within 120 days after recording the lien claim by:
 - filing a complaint in the circuit court for the county where the property is located; and
 - serving the complaint with a summons. The 120-day deadline does not apply to service on another construction lien claimant.
- Consider that the foreclosure action commences as to each defendant:
 - on the date the claimant files the complaint, if the claimant serves the summons within 60 days after filing; or
 - otherwise on the date the claimant serves the summons.

(Or. Rev. Stat. §§ 12.020, 87.055, and 87.060(1); Or. R. Civ. P. 7; see Practice Note, Construction Liens in Practice (OR): Enforcing a Construction Lien ([W-017-5308](#)) and State Q&A, Commencing an Action: Oregon: Questions 12 and 13 ([W-001-6305](#))).

CONDUCT THE FORECLOSURE ACTION

NAME THE NECESSARY PARTIES

- Review the foreclosure guarantee and name all necessary parties in the complaint, including:
 - the owner;
 - any person other than the owner contractually obligated to pay the claimant for the lienable work (for example, an original contractor); and
 - any other construction lien claimant that has recorded a lien claim (see Evaluate the Subject Property).
- Add any holder of a junior or inferior lien or interest against the property (for example, a later or subordinated mortgagee, trust deed beneficiary, or judgment lien holder) as a defendant.

PLEAD THE REQUIRED FACTS

- State all the required facts in the complaint, including details of the claimant's compliance with all statutory obligations.
- Attach copies of:
 - any written contracts and change orders;
 - the lien claim;
 - all pre-foreclosure notices and responses to demands for information; and
 - receipts for all registered and certified mailings.
- Consider attaching proof of actual costs (such as invoices or applications for payment) to demonstrate the reasonable value of the lienable work (Or. Rev. Stat. § 87.060(2)).
- If desired, request both:
 - a money award against any party personally liable for payment of the lien claim; and
 - the right to obtain a deficiency judgment.

For more details on preparing a foreclosure complaint, see Practice Note, Construction Liens in Practice (OR): Conduct a Foreclosure Action ([W-017-5308](#)).

RECORD A NOTICE OF LIS PENDENS

Record a notice of pendency of an action (notice of *lis pendens*) in the statutory form in each county where the property is located to put third parties on constructive notice of the foreclosure action (Or. Rev. Stat. § 93.740; see Practice Note, Construction Liens in Practice (OR): Record a Notice of Lis Pendens ([W-017-5308](#))).

ENFORCE A JUDGMENT

Execute on a judgment by bringing the property to sale under the procedures for a judicial foreclosure unless the judgment is satisfied by a lien release bond or cash deposit (see Record a Lien Release Bond (Owner or Other Interested Person) and Practice Note, Construction Liens in Practice (OR): Judgment and Sale ([W-017-5308](#))).

For more information on enforcing a foreclosure judgment, see Practice Notes, Residential Foreclosures (Judicial) (OR): Execute on

the Judgment ([W-014-9447](#)) and Commercial Foreclosures (Judicial) (OR): Execute on the Judgment ([W-014-9448](#)).

WAIVE OR RELEASE A LIEN (CLAIMANT)

- Deliver a lien waiver or release if the claimant:
 - provides materials or supplies;
 - accepts payment of the amount due; and
 - receives demand from the person making the payment. (Or. Rev. Stat. § 87.025(5).)
- Consider that the claimant:
 - automatically waives its lien rights if it accepts a mortgage or trust deed as security for payment of its lienable work; and
 - may agree to release its lien rights for work it has performed when accepting a progress payment, if applicable (see Practice Note, Payment Provisions in Construction Contracts: Drafting Strategies: Waiver and Release of Claims ([1-568-1506](#))).
- Ensure any prospective lien waiver is sufficiently clear and unambiguous.

For more information on lien waivers and releases, see:

- Practice Note, Construction Liens in Practice (OR): Waiving or Releasing a Construction Lien ([W-017-5308](#)).
- Practice Note, Waivers and Releases in Construction Contracts: Drafting Strategies ([W-001-0219](#)).
- Standard Document, Partial Lien Waiver and Release (Construction) ([W-008-8952](#)).
- Standard Document, Final Waiver and Release of Liens and Claims (Construction) ([W-009-8445](#)).

RECORD A LIEN RELEASE BOND (OWNER OR OTHER INTERESTED PERSON)

- Consider that the owner or another interested person (principal) may release the property from a construction lien any time after the claimant records its lien claim by:
 - recording a lien release bond in the county where the lien claim is filed; or
 - making an equivalent cash deposit with the treasurer of the same county. (Or. Rev. Stat. § 87.076(1), (2), and (3).)
- Verify the principal provides a notice of filing or deposit to the claimant in the statutory manner within 20 days after recording the bond or making the deposit (Or. Rev. Stat. § 87.078(1)).
- Consider that Oregon law also permits the owner to:
 - avoid liability for liens arising from an unauthorized improvement by timely posting a notice of nonresponsibility (Or. Rev. Stat. § 87.030; see Practice Note, Construction Liens in Practice (OR): Post a Notice of Nonresponsibility (Owner) ([W-017-5308](#)));
 - withhold funds from a contractor during a foreclosure action against the contractor (Or. Rev. Stat. § 87.070); and

- file a complaint with the CCB to recover on a contractor's bond (Or. Rev. Stat. § 701.140(2)).
- Note that a residential owner must secure a purchaser from potential lien claims using one of several prescribed methods, such as obtaining an approved title insurance policy or retaining funds in escrow (Or. Rev. Stat. § 87.007(2)).

For more details about lien release bonds and other measures for addressing construction liens, see Practice Note, Construction Liens in Practice (OR): Owner's Rights and Remedies ([W-017-5308](#)).

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