

OREGON CONSTRUCTION LIEN CHECKLIST

75th Day: _____, 20__ (#18) 120th Day: _____, 20__ (#26)

TO DO	CONSIDER
<p>1. Client's name:</p>	<p>Check the Secretary of State website: www.sos.state.or.us and the Construction Contractors Board (CCB) website: www.ccb.state.or.us. Also call Secretary of State ((503) 986-2200) and Construction Contractors Board (CCB) ((503) 378-4621, ext 4900). Review ORS 60.094 (corporate name), 648.007 (assumed business names), 671.575 (prohibits unlicensed landscaping business filing lien), and 701.131 (prohibits unlicensed contractor from perfecting claim of lien or commencing claim). Is client required to be licensed as a plumber or electrician?</p>
<p>2. Name of person/entity who/which employed client:</p>	<p>See 1 above. Also review contracts, invoices, credit applications, and payments. Review ORS 87.035(3)(c).</p>
<p>3. If client provided work to a contractor for a project to "<i>renovate, remodel, repair or otherwise alter an existing owner-occupied residence</i>", is that contractor CCB licensed?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Date client checked CCB license status: _____</p> <p>Is this date the date that client:</p> <p><input type="checkbox"/> First contracted for project?</p> <p><input type="checkbox"/> First delivered to the project site?</p>	<p>Check contractor's license status on the Construction Contractors Board (CCB) website: www.ccb.state.or.us, print out the page showing the contractor's license status and keep a copy in your job file.</p> <p>No lien rights if work is provided for a project to "<i>renovate, remodel, repair or otherwise alter an existing owner-occupied residence</i>" to a contractor that is unlicensed either at the time that client first contracted for the project or that client first delivered work to the project site, whichever is earlier. Review HB 3689 (effective 1/1/11). NOTE: It will not be sufficient to have reviewed the status of a contractor's license upon the opening of a general credit account.</p>

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4. Name of owner(s):	See 1 above. Also review lien notices and title information. Review ORS 87.035(3)(b). See <i>Miller v. Ogden</i> , 134 Or App 589, 896 P2d 596 (1995), <i>aff'd</i> , 325 Or 248 (1997).
5. Name of mortgagee(s):	See 1 above.
6. All names confirmed with: Secretary of State <input type="checkbox"/> CCB <input type="checkbox"/>	Is the information the same? Are there any licensing issues?
7. Type of construction: Residential <input type="checkbox"/> Commercial <input type="checkbox"/>	Review ORS 87.021(3) (definitions) and 87.093. Review <i>Calapooia Pole Structures, Inc. v. Moulder</i> , 128 Or App 190, 875 P2d 495 (1994) (look to nature of contract not simply location of structure).
8. Client provided: Labor <input type="checkbox"/> Equipment <input type="checkbox"/> Materials <input type="checkbox"/> Services <input type="checkbox"/>	Review ORS 87.021 and 87.025(3) (materials). Review <i>Teeny v. Haertl Constructors, Inc.</i> , 314 Or 688, 842 P2d 788 (1992) (labor exception is subcontractor oriented).
9. Date of client's bid/contract: Date client started working:	See 1 above for licensing issues. Review ORS 87.021, 87.093, and 701.330 for notice issues. Review ORS 671.625 and 701.305 (written contract requirements).
10. Information Notice to Owner required: <input type="checkbox"/> Yes <input type="checkbox"/> No	Review ORS 87.093. See 2, 4, and 7 above.
11. If 10 is yes, date of delivery of Information Notice to Owner:	See 9 above. Review ORS 87.093(2)–(3). Review ORS 87.030 (notice of nonresponsibility).

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12. If client is prime contractor on “residential structure” or “zero-lot-line dwelling,” is there a written contract? <input type="checkbox"/> Yes <input type="checkbox"/> No	No lien rights without written contract. Review ORS 87.037, 701.305 (written contract requirement and standard contractual terms), 701.005 (definition of “residential structure” or “zero-lot-line dwelling”), and OAR 812-012-0110 (terms of written contract) (effective 4/28/10).
13. Notice of Right to a Lien Required: No <input type="checkbox"/> Owner(s) <input type="checkbox"/> Mortgagee(s) <input type="checkbox"/>	Review ORS 87.021, 87.023 and 87.025(3). See 2, 4, 7, and 8 above.
14. Date of mailing Notice of Right to a Lien: Receipts:	See 9 above. Review ORS 87.021 and 87.025(3). Review <i>Morse Bros., Inc. v. Kemp Construction, Inc.</i> , 147 Or App 217, 935 P2d 464 (1997).
15. Has client received any requests under ORS 87.025 or 87.027: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, when: Has client responded: <input type="checkbox"/> Yes <input type="checkbox"/> No When is response due: To whom:	Review ORS 87.025(4) and 87.027 (requests for information).
16. Date project completed:	Review ORS 87.045 and <i>Dallas Lbr. & Supply v. Phillips</i> , 249 Or 58, 436 P2d 729 (1968) (completion notices not conclusive test).
17. Client’s last day of work on the project:	Not repair, <i>Fox & Co. v. Roman Catholic Bishop</i> , 107 Or 557, 215 P 178 (1923), or trifling, <i>Cons. Elec. v. Jepson Elec.</i> , 272 Or 384, 537 P2d 83 (1975).

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<p>18. 75 days* from project's completion:</p> <p>75 days* from client's last day:</p> <p>*If labor, materials, or equipment, use <u>earlier</u> of above dates as the last day to record lien.</p>	<p>Review ORS 87.035. Do not extend by agreement. Review ORS 87.010. Review <i>Tyree v. Tyree</i>, 116 Or App 317, 840 P2d 1378 (1992) (do not use ORCP 10 to extend deadline)</p>
<p>19. Original Contract Amount: \$ _____</p> <p>Minus payments of:</p> <p>Change order(s):</p> <p>Backcharges:</p> <p>Extra Work Order:</p>	<p>Review dates, amounts, and applications of payments. Review ORS 87.035(3)(a).</p>
<p>20. Total remaining owing: \$ _____ including:</p> <p>\$ _____ for labor</p> <p>\$ _____ for materials</p> <p>\$ _____ for equipment</p> <p>\$ _____ for services</p>	<p>Review ORS 87.035(3)(a). Avoid nonsegregated liens, <i>Anderson v. Chambliss</i>, 199 Or 400, 262 P2d 298 (1953), and do not overstate, <i>J.W. Copeland Yards v. Phillips</i>, 275 Or 193, 550 P2d 438 (1976). Review ORS 87.010. Review any lien waivers and releases.</p>
<p>21. Client is entitled to interest of ___% per annum beginning:</p>	<p>Review <i>P&C Construction Co. v. American Diversified</i>, 101 Or App 51, 789 P2d 688 (1990), and ORS 701.420–701.430 and 82.010 (statutory interest). Review contract.</p>
<p>22. Property address:</p>	<p>Review ORS 87.035(3)(d) and notices, title information, and building permits.</p>

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23. Property description: County:	Review ORS 87.035(3)(d) and notices, title information, and building permits. Review <i>Tigard Sand & Gravel Co. v. LBH Construction</i> , 149 Or App 131, 941 P2d 1075 (1997). ORS 93.600 does not apply. <i>Bell Hardware v. Ed Szoyka Woodworking Co.</i> , 123 Or App 332, 879 P2d 208 (1994).
24. Who will sign lien: Title:	Review ORS 87.035(4). Not a lawyer. Necessary witness! <i>But see Teeny v. Haertl Constructors, Inc.</i> , 111 Or App 543, 548–549, 826 P2d 1029, <i>rev'd in part</i> , 314 Or 688 (1992) (lawyer's verification discussed).
25. Date lien recorded: Document No.:	See 18 above. Review ORS 87.035. Make a copy before lien is recorded to include with notice of filing.
26. 120 days from recording date is:	Review ORS 87.055. Last day to file foreclosure action. Do not extend by agreement.
27. 20 days from recording date is:	Review ORS 87.039. See 4 and 5 above.
28. Date Notice of Filing/ Foreclosure sent: Receipts: Was Notice of Intent to Foreclose included? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, date Notice of Intent to Foreclose delivered: Receipts:	See 27 above. Review ORS 87.057. Note all mortgagees must receive notice. <i>Molalla Pump v. Chaney</i> , 42 Or App 789, 601 P2d 874 (1979).

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<p>29. Has client received any requests under ORS 87.057? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, when:</p> <p>Has client responded? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Response is due:</p>	<p>Review ORS 87.057.</p>
<p>30. Date Foreclosure Report ordered:</p> <p>From:</p> <p>Order No.:</p>	<p>See 26 above.</p>
<p>31. Additional notices required: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Date sent:</p>	<p>Review ORS 87.057. See 28 above.</p>
<p>32. Release Demand received: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, date received:</p> <p>Date response due:</p>	<p>Review ORS 87.076(4).</p>
<p>33. Cash deposit or bond made: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, was affidavit filed: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, was notice received: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Review ORS 87.076–87.088.</p>

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34. Date notice of cash deposit or bond received: Date petition to determine adequacy due:	Review ORS 87.078(2) and 87.086.
35. Date complaint filed: Case No.: Filed in _____ County, Oregon	Review ORS 87.055. See 26 above. Complaint also refers to cross-claim, counterclaim, i.e., any claim foreclosing the lien.
36. Date Pendency of an Action Notice recorded: Document No.:	
37. 60 days from filing date of complaint is:	Review ORS 87.055 and 12.020. See 35 above.
38. Date all service completed:	See 37 above.
39. Date Lien Satisfaction/Release recorded: Document No.:	
40. Date judgment was Signed: Filed: Entered:	
41. Date Pendency of an Action Notice Released:	