



# Possessory Liens/Abandoned Vehicles

## Oregon DMV

*In order to title a vehicle, one must have acquired a legal interest through some legal process.  
A tow claiming a possessory lien must have a valid tow business certificate issued under ORS 822.205*

### This packet contains:

- ♦ information about asking advice from DMV,
- ♦ general information on some situations where ownership of a vehicle may be transferable through a possessory lien process,
- ♦ information on abandoned vehicles,
- ♦ information on documents and fees needed to apply for title,
- ♦ answers to some frequently asked questions not otherwise covered in the above information, and
- ♦ the DMV-issued forms to use when applying for title when a vehicle has been sold based on a possessory lien foreclosure,
- ♦ copies of some of the laws covering the most common possessory lien and abandoned vehicle situations (you also may obtain copies of laws at your local library or by Internet access at [www.leg.state.or.us/ors](http://www.leg.state.or.us/ors)).

### Advice from DMV

DMV **cannot** advise you which, if any, of the laws or forms referenced in this packet fit your particular situation. There may be other laws or legal procedures that could be followed in disposing of an abandoned vehicle or obtaining an interest in a vehicle. If you have questions concerning what laws may apply or about the process for claiming or foreclosing a lien, you may wish to seek legal counsel for advice, or research on your own.

**Note:** *The statutes provided at the back of this packet are amended by Oregon Laws 2007 and will be codified in the 2007-2008 Oregon Revised Statutes.*

### General information

Some situations where ownership of a vehicle may be transferable through the possessory lien process:

1. Vehicles owned by a tenant or occupant legally responsible for rent, which was brought upon the leased premises, and retained by the landlord to secure payment of rent. The landlord may have a claim to a lien under ORS 87.162. If you foreclose a lien based on these statutes, title should be applied for using a Certificate of Possessory Lien Foreclosure, Form 735-518.
2. Vehicles abandoned on private property and removed at the request of the owner or lawful possessor of the property, in accordance with Chapter 98. The person towing the vehicle may have a claim to a lien under ORS 98.835. If you foreclose a lien based on these statutes, title should be applied for using a Certificate of Possessory Lien Foreclosure, Form 735-519.
3. Vehicles repaired, stored, towed, etc, at the request of the owner or lawful possessor of the vehicle. The person who repaired, stored, or towed the vehicle may have a claim to a lien under ORS 87.152. If you foreclose a lien based on these statutes, title should be applied for using a Certificate of Possessory Lien Foreclosure, Form 735-520.
4. Vehicles abandoned by a tenant with whom you have a lease or rental agreement (ORS 90.425). If you foreclose a lien based on this statute, title should be applied for using a Certificate of Possessory Lien Foreclosure, Form 735-521.
5. Vehicles towed at the request of an appropriate authority (Oregon State Police, a county, city) when the vehicle was abandoned or taken into custody by an appropriate authority and towed at the request of the authority. The person towing the vehicle may have a claim to a lien under ORS 98 and ORS 87. If you foreclose a lien based on these statutes, title should be applied for using a Certificate of Possessory Lien Foreclosure, Form 735-6604.
6. Vehicles left or parked in violation of ORS 98.810 and removed from either proscribed property or from a parking facility at the request of the owner of the parking facility or the owner of the proscribed property. The tow, who removed the vehicle, may have a claim to a lien under ORS 98.812. If you foreclose a lien based on these statutes, title should be applied for using a Certificate of Possessory Lien Foreclosure, Form 735-6605.

# Possessory Liens/Abandoned Vehicles

## Oregon DMV

### Abandoned Vehicles

**In order to title any vehicle, including abandoned vehicles, one must have acquired a legal interest through some legal process.** Generally, it will not be the property owner, but whoever purchases the vehicle at a subsequent sale by a lien claimant or authority, who may apply for title.

#### **There are various provisions available for disposal of abandoned vehicles including the following:**

- For vehicles abandoned on any public way, state law (ORS Chapter 819) allows for the appropriate authority (e.g. state, county, city) to remove the vehicle. Some local governments may also have ordinances governing the disposal. If the vehicle is abandoned on federal property, federal laws would apply.
- For vehicles abandoned on private property, Oregon law (ORS 98.830) states:  
"A person who is the owner, or is in lawful possession of private property on which a vehicle has been abandoned may have a tow to the vehicle from the property if:  
(1) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed. The notice required by this subsection must remain on the vehicle for 72 hours before the vehicle may be removed.  
(2) The person fills out and signs a form\* that includes:  
(a) a description of the vehicle to be towed;  
(b) the location of the property from which the vehicle will be towed;  
(c) a statement that the person has complied with subsections (1) of this section. The form should be given to the tow company who removes the vehicle.

**\*NOTE:** DMV does not provide you with a form. The information needed {described in (2) (a),(b),(c)} can be written on a separate piece of paper.

- For vehicles abandoned on private property, ORS 819.280 allows a person to make a request to an authority (state, city, or county) to dispose of a vehicle abandoned on private property, when it is appraised at a value of \$500 or less, by a person who holds a certificate issued under ORS 819.230, and the person making the request is determined to be in lawful possession of the vehicle. If the authority chooses to dispose of the vehicle, the authority may only dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110. The authority may charge the person requesting the disposal a fee to dispose of the vehicle.
- For vehicles left or parked in a parking facility or on proscribed property defined in ORS 98.805, ORS 98.812 states that "...the owner of the parking facility or the owner of the proscribed property, after notice to the local law enforcement agency, may have the motor vehicle towed from the parking facility or the proscribed property and placed in storage at a public garage or public parking lot." The statute further states that the garagekeeper or public parking operator is entitled to a lien on the vehicle and contents.
- There may be other provisions that could apply, such as when the vehicle owner was a former tenant of the property owner and owes rent, or when the property owner performed labor on the vehicle or stored the vehicle at the request of the vehicle owner or lawful possessor. Again, you may wish to seek legal counsel or research on your own if you have questions about whether you can claim a lien, or what steps you must follow to claim and to foreclose on such a lien.

#### **Titling a previously abandoned vehicle:**

To obtain title, a person must have acquired a legal interest in a vehicle. In most cases people do this through some form of purchase or financial agreement; that change of interest is accomplished through the voluntary assignment of the existing title for the vehicle.

In the case of an abandoned vehicle, any transfer of interest will be involuntary and require some form of legal process (operation of law). One cannot simply obtain title because the vehicle was left on one's property.

# Possessory Liens/Abandoned Vehicles

## Oregon DMV

In most cases of abandoned vehicles, the existing title is not available for transfer. In lieu of a properly endorsed title, and in addition to any other title requirements, DMV must receive satisfactory evidence of the facts entitling the applicant to title. For example:

For an abandoned vehicle sold by an appropriate authority (for example, state police, county sheriff, or a city) and where the vehicle is not otherwise subject to salvage title procedures, the purchaser may apply for title. A bill of sale to the purchaser from the appropriate authority will be required in support of the application for title. The bill of sale must describe the vehicle, identify the statutes or legal authority under which the sale was held, and indicate that former interest holders were notified.

For a vehicle sold through foreclosure of a lien by the party who towed the vehicle, whoever purchased the vehicle at the lien foreclosure sale may apply for title. A certification from the tow company concerning the lien and foreclosure and to whom the vehicle was sold is required in support of the title application. (Tow companies can obtain certification forms from DMV.)

For a vehicle sold through foreclosure of some other type of lien foreclosure, whoever acquires the vehicle through the foreclosure process may apply for title. A certification from the lien claimant is required in support of the title application. Certification forms for the more common liens (for example, possessory labor/storage liens, landlord liens) are included in this packet or may be obtained from DMV. Forms are also available on the Internet at: [www.odot.state.or.us/dmv](http://www.odot.state.or.us/dmv)

### Documents and fees needed to apply for title:

After the lien has been foreclosed, the appropriate Certificate of Possessory Lien Foreclosure form should be **fully** completed and signed by the person foreclosing the lien. The form is then given to the purchaser. The purchaser or a subsequent buyer may then apply for title.

To apply for title, the purchaser must submit:

- ♦ an Application for Title and Registration, Form 735-226, fully completed and signed.
- ♦ **ONE** of the Certification of Possessory Lien forms (the one that covers your situation), fully completed and signed by the authorized representative of the business or the person claiming the lien. Your application will be rejected if you submit more than one type of form for certifying foreclosure.
- ♦ The appropriate title application fee. If the vehicle was last titled in Oregon, you must submit an application for title to DMV within 30 days from the date of the auction to avoid paying late fees.

**NOTE:** If the vehicle was last titled in another state, or must be titled as assembled, reconstructed or replica, either DMV or the Oregon State Police must complete a physical inspection of the vehicle's identification number. The fee for the inspection is \$7.

### Lien Claimants Required To Keep Records

Lien claimants are required to keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records must be retained for a period of five years by the lien claimant. The following records must be retained:

- ♦ A signed and dated copy of an original tow notification, repair order, an impound form from law enforcement or other similar form or document showing how the lien claimant acquired possession of the subject vehicle, or a written record that identifies the person or entity that authorized the lien claimant to take possession of the subject vehicle and the time and date of contact;
- ♦ A signed and dated copy of an original claim of possessory lien/ notice of foreclosure sale form applicable to the possessory lien or similar form or document showing the owner of the vehicle was notified of the possessory lien;
- ♦ A signed and dated copy of the DMV certificate of possessory lien foreclosure form applicable to the possessory lien as specified in OAR 735-020-0012 for each subject vehicle; and
- ♦ A bill of sale, if applicable.

A lien claimant must notify DMV within 10 days of the sale or transfer of interest of a vehicle. DMV must receive a completed and signed Notice of Sale or Transfer of Vehicle (DMV Form 6890), if the subject vehicle is covered by an Oregon title; or a completed and signed Notice of Lien Foreclosure; Sale or Transfer of Vehicle (DMV Form 6890A), if the subject vehicle is not covered by an Oregon title.

# Possessory Liens/Abandoned Vehicles Oregon DMV

## Answers to Frequently Asked Questions

### Out-of-State Possessory Liens:

- I have a possessory lien document, sheriff's sale document, or similar ownership document issued by a jurisdiction outside of Oregon. Can I apply for an Oregon certificate of title using one of these documents?

No. Oregon DMV will not accept an application for vehicle title when ownership is being transferred under out-of-state abandoned vehicle laws or out-of-state foreclosure laws. An Oregon title will be issued only after the lien claimant or purchaser is issued a certificate of title by the jurisdiction where the foreclosure occurred.

### Donating an Abandoned Vehicle:

- A vehicle has been abandoned on my property. Can I donate it to a charity?

No, you cannot give away an abandoned vehicle, even if it's on your property. Oregon law contains several specific provisions for the disposal of abandoned vehicles. See the "Abandoned Vehicles" section for additional information on the disposal of abandoned vehicles.

### Possessory Lien Foreclosure Forms:

- Do I need to complete the entire form?

Yes. A possessory lien foreclosure form must be fully completed and signed before it will be accepted.

- Are there additional forms that need to be completed?

See the "Documents and Fees" section for additional information on the forms that you will need to apply for title after a possessory lien is officially foreclosed.

- Are there special instructions for completing the form?

No. Just be sure that each section of the form is complete and that you have signed the form. Your signature certifies that you have complied with all applicable lien foreclosure laws and rules. If you're not sure, you may want to seek legal advice from an attorney.

- Which possessory lien foreclosure form do I use to file a possessory lien?

DMV cannot dispense legal advice. This includes advising you on the particular foreclosure process or foreclosure form that applies to your situation. If you're not sure, you may want to seek legal advice from an attorney.

- Can I just complete and submit all DMV possessory lien forms?

No. Your application will be rejected if you submit more than one form. Each form references different laws, rules and requirements. It's your responsibility to know the laws that apply to your situation. If you're not sure, you may want to seek legal advice from an attorney.

### Professional Lien Services:

- Am I required to use a professional lien service?

No. You can file the lien yourself or use a professional lien service. In either case, all applicable laws and rules must be followed.

### Requesting Information on a Vehicle Owner:

- Am I required to contact the vehicle owner when foreclosing a lien?

It depends on the type of lien that is being foreclosed and the laws that apply. If you're not sure, you may want to seek legal advice from an attorney.

- Can I request information from DMV to notify the vehicle owner for purposes of a lien foreclosure?

Yes. DMV will process a records request for this purpose if the request is made in writing, includes a \$4 processing fee and contains all of the following information:

- The vehicle year, make, model, identification number (VIN) and license plate number;
- A signed statement that the record information is requested for purposes of "providing notice of a lien foreclosure." Include a citation of the applicable law(s) authorizing the foreclosure (ORS #, Local Ordinance #, etc.). In addition to the requirements above, records requests from a business must include the name of the business or be on official letterhead stationery and must be signed by an authorized representative.

**Request Example:** I hereby request the vehicle record for the vehicle listed below. Any personal information contained in the record will be used solely for the purpose of providing notice of a lien foreclosure under ORS 123.456. 1994 Ford PU, plate # ABC123, VIN 123456789ABCDEFG.

Submit your request and \$4 fee to: DMV Record Services Unit, 1905 Lana Ave NE, Salem, OR 97314.



DEPARTMENT OF TRANSPORTATION  
DRIVER AND MOTOR VEHICLE SERVICES  
1905 LANA AVE NE, SALEM OREGON 97314

## CERTIFICATE OF POSSESSORY LIEN FORECLOSURE (ORS 87.162 - LANDLORDS LIEN )

This certification is for use in support of an Oregon title application where transfer of ownership results from the foreclosure of a possessory landlord's lien created under ORS 87.162, **where the vehicle owned by a tenant or occupant legally responsible for rent**, was brought upon the leased premises, and retained by the landlord to secure payment of rent and such advances made upon behalf of the tenant. This form **may not be used where there is previously perfected security interest** in a vehicle, and where as provided in ORS 87.182 the lien must be foreclosed by suit.

ORS 822.093 requires lien claimants to keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records, including a signed and dated copy of this DMV certificate of possessory lien foreclosure form, must be retained for a period of five years by the lien claimant.

I certify that:

- The following described vehicle was owned by a tenant or occupant legally responsible for rent and was brought upon the leased premises by said person;
- I, or the firm I represent, am the landlord of the leased property and a possessory landlord's lien is attached to the vehicle pursuant to ORS 87.162 and 87.166.
- I foreclosed the possessory lien in accordance with the provisions of ORS 87.172 and ORS 87.176 to 87.206, and
- I complied with **all** applicable statutory requirements, including notification of all security interest holders as listed on the *Certificate of Title*, in accordance with ORS 87.196.

PLATE NUMBER	STATE OF ISSUE	VEHICLE YEAR	MAKE	BODY STYLE	MODEL
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VEHICLE IDENTIFICATION NUMBER

I further certify that:

- The vehicle was sold at public auction to:

\_\_\_\_\_ (Buyer's printed name)

\_\_\_\_\_ (Date of auction)

**Not valid unless buyer's name and date of auction completed.**

I (the lien claimant) further certify that all information given above is true and accurate and that I am making this certification in support of an application for title. I understand it is a crime under ORS 803.075, to certify the truth of a statement when I know the statement is not true. Such a crime is a class A misdemeanor and is punishable by a jail sentence of up to year and a fine of up to \$6,250, or both.

PRINTED NAME OF LIEN CLAIMANT	PHONE NUMBER
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STREET ADDRESS	CITY	STATE	ZIP CODE
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SIGNATURE OF LIEN CLAIMANT  
**X**

**NOT VALID UNLESS FORM COMPLETED IN FULL AND SIGNED.**

This form must be submitted to DMV with the application for title.





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## CERTIFICATE OF POSSESSORY LIEN FORECLOSURE (ORS 98.835)

This certification is for use in support of Oregon title applications where transfer results from the foreclosure of a lien created under ORS 98.835 as the result of an abandoned vehicle being removed from private property at the request of the owner or lawful possessor of the property, in accordance with ORS 98.830.

ORS 822.093 requires lien claimants to keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records, including a signed and dated copy of this DMV certificate of possessory lien foreclosure form, must be retained for a period of five years by the lien claimant.

I certify that:

- I, or the firm I represent, at the request of the owner or lawful possessor of private property, removed the following described vehicle from said property, as provided in ORS 98.830;
- A possessory lien pursuant to ORS 98.835 is attached to the vehicle;
- I foreclosed the possessory lien in accordance with ORS 98.835(3), ORS 87.172(3) and ORS 87.176 to 87.206; and
- I complied with **all** applicable statutory requirements, including notification of all security interest holders as listed on the *Certificate of Title*, in accordance with ORS 87.196.

PLATE NUMBER	STATE OF ISSUE	VEHICLE YEAR	MAKE	BODY STYLE	MODEL
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VEHICLE IDENTIFICATION NUMBER

I further certify that:

- The vehicle was sold at public auction to:

\_\_\_\_\_ (Buyer's printed name)

\_\_\_\_\_ (Date of auction)

**Not valid unless buyer's name and date of auction completed.**

**I (the lien claimant) further certify that all information given above is true and accurate and that I am making this certification in support of an application for title. I understand it is a crime under ORS 803.075 to certify the truth of a statement when I know the statement is not true. Such a crime is a class A misdemeanor punishable by a jail sentence of up to 1 year and a fine of up to \$6,250, or both.**

PRINTED NAME OF LIEN CLAIMANT (A TOWER MUST HAVE A VALID TOW BUSINESS CERTIFICATE ISSUED UNDER ORS 822.205)	PHONE NUMBER
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STREET ADDRESS	CITY	STATE	ZIP CODE
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SIGNATURE OF LIEN CLAIMANT <b>X</b>	TOWER PLATE NUMBER (TW PLATE)
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**NOT VALID UNLESS FORM COMPLETED IN FULL AND SIGNED.**  
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## CERTIFICATE OF POSSESSORY LIEN FORECLOSURE (ORS 87.152 - LIEN FOR LABOR AND MATERIALS)

This certification is for use in support of Oregon title applications where transfer results from the foreclosure of a possessory lien created under ORS 87.152. That statute provides for a lien for labor or materials expended on a chattel (including a vehicle) in situations where **at the request of the owner or lawful possessor of a chattel (e.g., vehicle)**, a person makes, alters, repairs, transports, stores, pastures, cares for, provides services for, supplies materials for or performs labor on a chattel.

ORS 822.093 requires lien claimants to keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records, including a signed and dated copy of this DMV certificate of possessory lien foreclosure form, must be retained for a period of five years by the lien claimant.

I certify that:

- I, or the firm I represent, at the request of the owner or lawful possessor, expended labor or materials on the following described vehicle pursuant to ORS 87.152 and 87.166.
- I foreclosed the possessory lien in accordance with the provisions of ORS 87.172 and ORS 87.176 to 87.206, and
- I complied with **all** applicable statutory requirements, including notification of all security interest holders as listed on the *Certificate of Title*, in accordance with ORS 87.196.

PLATE NUMBER	STATE OF ISSUE	VEHICLE YEAR	MAKE	BODY STYLE	MODEL
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VEHICLE IDENTIFICATION NUMBER

I further certify that:

- The vehicle was sold at public auction to:

\_\_\_\_\_ (Buyer's printed name)

\_\_\_\_\_ (Date of auction)

**Not valid unless buyer's name and date of auction completed.**

**I (the lien claimant) further certify that all information given above is true and accurate and that I am making this certification in support of an application for title. I understand it is a crime under ORS 803.075, to certify the truth of a statement when I know the statement is not true. Such a crime is a Class A Misdemeanor punishable by a jail sentence of up to 1 year and a fine of up to \$6,250, or both.**

PRINTED NAME OF LIEN CLAIMANT (A TOWER MUST HAVE A VALID TOW BUSINESS CERTIFICATE ISSUED UNDER ORS 822.205)			PHONE NUMBER		
STREET ADDRESS		CITY	STATE	ZIP CODE	

SIGNATURE OF LIEN CLAIMANT  
**X**

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## CERTIFICATE OF POSSESSORY LIEN FORECLOSURE (ORS 90.425 – LIEN FOR PERSONAL PROPERTY ABANDONED BY TENANT)

This certification is for use in support of Oregon title applications where transfer results from the foreclosure of a possessory lien created under ORS 90.425. The statute provides for a lien which allows a landlord to dispose of property abandoned by a tenant with whom they have a lease or rental agreement.

ORS 822.093 requires lien claimants to keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records, including a signed and dated copy of this DMV certificate of possessory lien foreclosure form, must be retained for a period of five years by the lien claimant.

I certify that:

- I have attached a possessory lien on the following described vehicle, pursuant to ORS 90.425.
- I foreclosed the possessory lien in accordance with the provisions of ORS 90.425; and
- I complied with **all** applicable statutory requirements, including notification of all security interest holders as listed on the *Certificate of Title*, in accordance with ORS 87.196.

PLATE NUMBER	STATE OF ISSUE	VEHICLE YEAR	MAKE	BODY STYLE	MODEL
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VEHICLE IDENTIFICATION NUMBER

I further certify that:

- The vehicle was sold at a private or public auction to:

\_\_\_\_\_ (Buyer's printed name); \_\_\_\_\_ (Date of auction)

**OR**

- I, or the firm I represent, have determined from county records that the current fair market value of the vehicle is \$500 or less or so low that the cost of storage and conducting a public sale probably exceeds the amount that would be realized from the sale.

The vehicle has been disposed of or given without consideration to the following unrelated person or nonprofit organization:

\_\_\_\_\_ (Given to); \_\_\_\_\_ (Date of disposal)

**Not valid unless buyer's name and date of auction completed.**

**I (the lien claimant) further certify that all information given above is true and accurate and that I am making this certification in support of an application for title. I understand it is a crime under ORS 803.075, to certify the truth of a statement when I know the statement is not true. Such a crime is a class A misdemeanor and is punishable by a jail sentence of up to 1 year and a fine of up to \$6,250, or both.**

PRINTED NAME OF LIEN CLAIMANT			PHONE NUMBER		
STREET ADDRESS		CITY	STATE	ZIP CODE	

SIGNATURE OF LIEN CLAIMANT  
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## CERTIFICATE OF POSSESSORY LIEN FORECLOSURE (ORS 819.160)

This certification is for use in support of Oregon title applications where transfer results from the foreclosure of a lien created under ORS 819.160 as a result of a vehicle being towed at the request of an appropriate authority (e.g., Oregon State Police, a county or city) where the vehicle is:

- An abandoned vehicle appraised at a value of more than \$500 by a person who holds a certificate under ORS 819.230;
- A vehicle taken into custody under ORS 819.110 or 819.120;
- A vehicle left parked or standing in violation of ORS 811.555 or 811.570; or
- A vehicle taken into custody under ORS 809.720 for violation of ORS 806.010.

ORS 822.093 requires lien claimants to keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records, including a signed and dated copy of this DMV certificate of possessory lien foreclosure form, must be retained for a period of five years by the lien claimant.

I certify that:

- I, or the firm I represent, towed the following described vehicle at the request of an appropriate authority, and that a possessory lien as provided in ORS 819.160 is attached.
- I foreclosed the possessory lien in accordance with ORS 98.812(3), ORS 87.172(3) and ORS 87.176 to 87.206, and
- I complied with **all** applicable statutory requirements.

PLATE NUMBER	STATE OF ISSUE	VEHICLE YEAR	MAKE	BODY STYLE	MODEL
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VEHICLE IDENTIFICATION NUMBER

I further certify that:

- The vehicle was sold at public auction to:

\_\_\_\_\_ (Buyer's printed name)

\_\_\_\_\_ (Date of auction)

**Not valid unless buyer's name and date of auction completed.**

**I (the lien claimant) further certify that all information given above is true and accurate and that I am making this certification in support of an application for title. I understand it is a crime under ORS 803.075, to certify the truth of a statement when I know the statement is not true. Such a crime is punishable by a jail sentence of up to 1 year and a fine of up to \$6,250, or both.**

PRINTED NAME OF LIEN CLAIMANT (A TOWER MUST HAVE A VALID TOW BUSINESS CERTIFICATE ISSUED UNDER ORS 822.205)	PHONE NUMBER
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STREET ADDRESS	CITY	STATE	ZIP CODE
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SIGNATURE OF LIEN CLAIMANT <b>X</b>	TOWER PLATE NUMBER (TW PLATE)
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## CERTIFICATE OF POSSESSORY LIEN FORECLOSURE (ORS 98.812)

This certification is for use in support of an Oregon title application where transfer results from the foreclosure of a lien created under ORS 98.812 as a result of a vehicle being removed from a parking facility or from proscribed property as defined in ORS 98.805 and which after notice to the local law enforcement agency, was at the request of the property owner, removed and placed in storage at a public garage or public parking lot.

ORS 822.093 requires lien claimants to keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records, including a signed and dated copy of this DMV certificate of possessory lien foreclosure form, must be retained for a period of five years by the lien claimant.

I certify that:

- I am a tower who at the request of an owner of a parking facility or the owner of proscribed property as defined in ORS 98.805, removed the following described vehicle.
- A possessory lien under ORS 98.812 is attached to the vehicle.
- I foreclosed the possessory lien in accordance with ORS 98.812(3), ORS 87.172(3) and ORS 87.176 to 87.206, and
- I complied with **all** applicable statutory requirements, including notification of all security interest holders as listed on the *Certificate of Title*, in accordance with ORS 87.196.

PLATE NUMBER	STATE OF ISSUE	VEHICLE YEAR	MAKE	BODY STYLE	MODEL
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VEHICLE IDENTIFICATION NUMBER

I further certify that:

- The vehicle was sold at public auction to:

\_\_\_\_\_ (Buyer's printed name)

\_\_\_\_\_ (Date of auction)

**Not valid unless buyer's name and date of auction completed.**

**I (the lien claimant) further certify that all information given above is true and accurate and that I am making this certification in support of an application for title. I understand it is a crime under ORS 803.075, to certify the truth of a statement when I know the statement is not true. Such a crime is a Class A Misdemeanor and punishable by a jail sentence of up to 1 year and a fine of up to \$6,250, or both.**

PRINTED NAME OF LIEN CLAIMANT (A TOWER MUST HAVE A VALID TOW BUSINESS CERTIFICATE ISSUED UNDER ORS 822.205)	PHONE NUMBER
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STREET ADDRESS	CITY	STATE	ZIP CODE
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SIGNATURE OF LIEN CLAIMANT  
**X**

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# NOTICE OF LIEN FORECLOSURE; SALE OR TRANSFER OF A VEHICLE

(THIS IS NOT A BILL OF SALE)

This form **must** be submitted to DMV by a lien claimant within 10 days of the date of sale or transfer of interest of a vehicle when a vehicle is either sold or acquired through a possessory lien foreclosure. **Please submit this form when the vehicle is NOT titled in Oregon.** If the vehicle IS titled in Oregon, submit a *Notice of Sale or Transfer of Vehicle* (DMV Form 6890). Completion of this form only places a notation on the vehicle record. Owner name(s) on DMV records cannot change until the title is transferred.

PLATE NUMBER	YEAR	MAKE
VEHICLE IDENTIFICATION NUMBER		TITLE NUMBER

## BUYER / TRANSFEREE

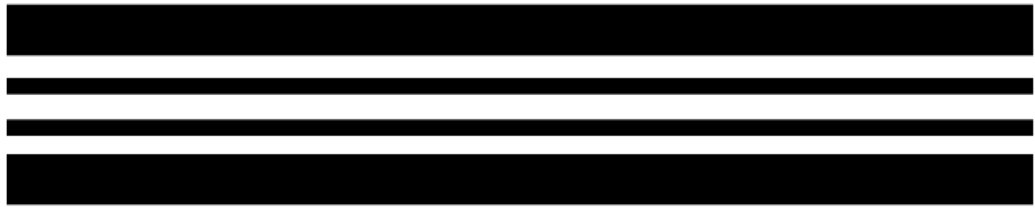
**The vehicle was sold or ownership transferred to:**

NAME OF BUYER OR TRANSFEREE (PLEASE PRINT)	ODL/CUST. # (IF AVAILABLE)	
NAME OF BUYER OR TRANSFEREE (PLEASE PRINT)	ODL/CUST. # (IF AVAILABLE)	
ADDRESS		
CITY	STATE	ZIP CODE
SIGNATURE OF BUYER OR TRANSFEREE (IF AVAILABLE)	DATE	
X		
SIGNATURE OF BUYER OR TRANSFEREE (IF AVAILABLE)	DATE	
X		

## SELLER / TRANSFEROR

NAME OF SELLER OR TRANSFEROR (PLEASE PRINT)	
SIGNATURE OF SELLER OR TRANSFEROR	DATE
X	
NAME OF SELLER OR TRANSFEROR (PLEASE PRINT)	
SIGNATURE OF SELLER OR TRANSFEROR	DATE
X	

This notification is for informational purposes only and does **not** constitute an assignment or release of any interest in the vehicle. ORS 803.112(5)



## Statutes Referenced on Oregon DMV Forms

**87.152 Possessory lien for labor or material expended on a chattel.** A person who 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 that 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 those charges are paid. [1975 c.648 s.3]

**87.162 Landlord's lien.** Except as provided in ORS 87.156 and 90.120, a landlord has a lien on all chattels, except wearing apparel as defined in ORS 23.160 (1), owned by a tenant or occupant legally responsible for rent, brought upon the leased premises, to secure the payment of rent and such advances as are made on behalf of the tenant. The landlord may retain the chattels until the amount of rent and advances is paid. [1975 c.648 s.5; 1981 c.258 s.1; 1997 c.374 s.8]

**87.166 Attachment of liens.** (1) Except as provided in subsection (2) of this section, the liens created by ORS 87.152 to 87.162 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.

(2) The lien created by ORS 87.162 attaches to the chattels described in that section on the 20th day after rents or advances occur or attaches when the occupant or tenant attempts to remove the chattels from the premises while there are unpaid rents or advances. A person claiming a lien under ORS 87.162 may take the chattels subject to that lien into the possession of the person when the lien attaches or at any time thereafter. [1975 c.648 s.6]

**87.172 Time period before foreclosure allowed.** (1) Except as otherwise provided in this section, a person claiming a lien under ORS 87.152 to 87.162 must retain the chattel that is subject to the lien for at least 60 days after the lien attaches to the chattel before foreclosing the lien.

(2) A person claiming a lien under ORS 87.152 for cost of care, materials and services bestowed on an animal must retain the animal for at least 30 days after the lien attaches to the animal before foreclosing the lien. If the animal is a dog or cat, the period shall be at least 15 days.

(3) A person claiming a lien under ORS 87.152 for the cost of removing, towing or storage of a vehicle that is appraised by a person who holds a certificate issued under ORS 819.230 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 on the lien. [1975 c.648 s.7; 1979 c.401 s.1; 1981 c.861 s.1; 1983 c.338 s.881; 1993 c.326 s.9; 1995 c.758 s.18; 2005 c.738 s. 7]

**87.176 Fees for storage of chattel; notice to lien debtor; effect of failure to comply.** (1) When the lien claimed under ORS 87.152 to 87.162 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. The claimant shall transmit the notice by certified mail. A person notified under ORS 87.196 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 to 87.162 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. The claimant shall transmit the notice by certified mail. A person notified under ORS 87.196 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

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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 s.8; 1993 c.385 s.1]

**87.182 Effect of prior security interest on method of foreclosure.** (1) When a lien created by ORS 87.162 is subordinate to a prior duly perfected security interest in a chattel as provided in ORS 87.146, the lien created by ORS 87.162 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 to 87.162 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 s.9]

**87.186 Location of foreclosure sale.** Foreclosure of liens created by ORS 87.152 to 87.162 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 s.11]

**87.192 Notice of foreclosure sale to lien debtor; public notice.** (1) Before a lien claimant forecloses a lien created by ORS 87.152 to 87.162 by sale, 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 subsection, at least 30 days before the foreclosure sale.
- (b) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230, at least 15 days before the foreclosure sale.
- (c) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230, at least 30 days before the foreclosure sale.
- (d) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of more than \$1,000 by a person who holds a certificate issued under ORS 819.230, at least 30 days before the foreclosure sale.

(2) The lien claimant shall give public notice of the foreclosure sale by posting notice of it 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) Notice under this subsection must be given no later than the time required for notice to a lien debtor under subsection (1) of this section.
- (b) This subsection does not require posting of notice at the location where the chattel was obtained if the chattel is a vehicle required to obtain a certificate of title issued under ORS chapter 803.

(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, 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.

(4) The notice of foreclosure sale required under this section shall contain a particular description of the property to be sold, the name of the owner or reputed owner thereof, 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 s.10; 1981 c.861 s.2; 1983 c.436 s.1; 1983 c.338 s.882; 1993 c.326 s.10; 1995 c.758 s.19; 2005 c.738 s.8]

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### **87.196 Notice of foreclosure sale to secured parties; effect of notice; effect of failure to give notice.**

(1) A lien claimant who forecloses a lien created by ORS 87.152 to 87.162 by sale shall give notice of the foreclosure sale by first class, registered or certified mail. The notice shall comply with the following:

(a) Notice shall be given to all persons with a security interest in the chattel to be sold who have 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.

(b) Notwithstanding paragraph (a) of this subsection 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 for which a certificate of title is required by the laws of this state, notice need only be given to persons whom the certificate of title indicates have a security interest or lien in the chattel.

(c) Notice under this subsection shall be given at least 30 days prior to the foreclosure sale. However, if the lien is claimed under ORS 87.152, the lien claimant shall give the notice required by this subsection:

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

(B) If no storage charges are imposed, not later than the 30th day after the date on which the services provided are completed; and

(C) At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$1,000 or less but more than \$500 by a person who holds a certificate issued under ORS 819.230; and

(D) At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230.

(2) A person notified under this section may discharge the lien and preserve the person's security interest by paying the lien claimant the amount of the lien claim and reasonable expenses actually incurred in foreclosing it. If the person does not so discharge the lien before the day of the foreclosure sale, the person's security interest is extinguished.

(3) 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 as required by this section, 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.

(4) 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 subsection (1) of this section, 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 s.14; 1981 c.861 s.3; 1983 c.338 s.883; 1993 c.326 s.11; 1995 c.758 s.20; 2005 c 738 s 9 ]

**87.202 Statement of account of foreclosure sale.** (1) A person who forecloses a lien created by ORS 87.152 to 87.162 by sale shall file a statement of account verified by the oath of the person with the recording officer of the county in which the sale took place when:

(a) The chattel sold at the foreclosure sale has a fair market value of \$250 or more; or

(b) The chattel sold at the foreclosure sale is an animal bearing 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 contain:

(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; and

(c) The amount received for the chattel sold at the sale.

(3) A person filing a statement of account under this section shall send a copy of the statement to the owner of the chattel sold at the foreclosure sale by registered or certified mail sent to the person at the last-known address of the person. If the chattel sold at a foreclosure sale is an animal bearing a brand or other mark recorded with the State Department of Agriculture under ORS chapter 604, a person filing a statement of account under this section shall send a copy of the statement to the State Department of Agriculture. [1975 c.648 s.13]

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**87.206 Disposition of proceeds of foreclosure sale.** (1) The proceeds of a sale to foreclose a lien created by ORS 87.152 to 87.162 shall first be applied to the payment of the expenses of the 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 lien claimant to the treasurer of the county in which the foreclosure sale is made. The remainder shall be accompanied by a statement of the lien claim and the cost of 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 s.12]

### **90.425 Disposition of personal property abandoned by tenant; notice; sale; tax cancellation; storage agreements; hazardous property.**

(1) As used in this section:

(a) "Current market value" means the amount in cash, as determined by the county assessor, that could reasonably be expected to be paid for a manufactured dwelling or floating home by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

(b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may throw away the property or may give it without consideration to a nonprofit organization or to a person unrelated to the landlord. The landlord may not retain the property for personal use or benefit.

(c) "Goods" includes those goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling or floating home, whether the recreational vehicle, dwelling or home is located inside or outside of a facility.

(d) "Lienholder" means any lienholder of an abandoned recreational vehicle, manufactured dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

(e) "Of record" means:

(A) For a recreational vehicle that is not a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and 803.097.

(B) For a manufactured dwelling or recreational vehicle that is a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded for the manufactured dwelling or recreational vehicle in the records of the Department of Consumer and Business Services pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation prior to July 1, 2004.

(C) For a floating home, that a security interest has been properly recorded with the State Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board pursuant to ORS 830.715.

(f) "Owner" means any owner of an abandoned recreational vehicle, manufactured dwelling or floating home, if different from the tenant and either of record or actually known to the landlord.

(g) "Personal property" means goods, vehicles and recreational vehicles and includes manufactured dwellings and floating homes not located in a facility. "Personal property" does not include manufactured dwellings and floating homes located in a facility and therefore subject to being stored, sold or disposed of as provided under ORS 90.675.

(2) A landlord may not store, sell or dispose of abandoned personal property except as provided by this section. This section governs the rights and obligations of landlords, tenants and any lienholders or owners in any personal property abandoned or left upon the premises by the tenant or any lienholder or owner in the following circumstances:

(a) The tenancy has ended by termination or expiration of a rental agreement or by relinquishment or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the personal property upon the premises with no intention of asserting any further claim to the premises or to the personal property;

(b) The tenant has been absent from the premises continuously for seven days after termination of a tenancy by a court order that has not been executed; or

(c) The landlord receives possession of the premises from the sheriff following restitution pursuant to ORS 105.161.

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(3) Prior to selling or disposing of the tenant's personal property under this section, the landlord must give a written notice to the tenant that must be:

- (a) Personally delivered to the tenant; or
- (b) Sent by first class mail addressed and mailed to the tenant at:
  - (A) The premises;

- (B) Any post-office box held by the tenant and actually known to the landlord; and
  - (C) The most recent forwarding address if provided by the tenant or actually known to the landlord.

(4)(a) In addition to the notice required by subsection (3) of this section, in the case of an abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give a copy of the notice described in subsection (3) of this section to:

- (A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;
- (B) Any owner of the recreational vehicle, manufactured dwelling or floating home;
- (C) The tax collector of the county where the manufactured dwelling or floating home is located; and
- (D) The assessor of the county where the manufactured dwelling or floating home is located.

(b) The landlord shall give the notice copy required by this subsection by personal delivery or first class mail, except that for any lienholder, mail service must be both by first class mail and by certified mail with return receipt requested.

(c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each lienholder at each address:

- (A) Actually known to the landlord;
- (B) Of record; and

- (C) Provided to the landlord by the lienholder in a written notice that identifies the personal property subject to the lien and that was sent to the landlord by certified mail with return receipt requested within the preceding five years. The notice must identify the personal property by describing the physical address of the property.

(5) The notice required under subsection (3) of this section must state that:

- (a) The personal property left upon the premises is considered abandoned;
- (b) The tenant or any lienholder or owner must contact the landlord by a specified date, as provided in subsection (6) of this section, to arrange for the removal of the abandoned personal property;
- (c) The personal property is stored at a place of safekeeping, except that if the property includes a manufactured dwelling or floating home, the dwelling or home must be stored on the rented space;
- (d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section, may arrange for removal of the personal property by contacting the landlord at a described telephone number or address on or before the specified date;
- (e) The landlord shall make the personal property available for removal by the tenant or any lienholder or owner, except as provided by subsection (18) of this section, by appointment at reasonable times;
- (f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, the landlord may require payment of removal and storage charges, as provided by subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any lienholder or owner;
- (g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this section, the landlord may not require payment of storage charges prior to releasing the personal property;
- (h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date, or after that contact, fails to remove the personal property within 30 days for recreational vehicles, manufactured dwellings and floating homes or 15 days for all other personal property, the landlord may sell or dispose of the personal property. If the landlord reasonably believes that the personal property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord intends to dispose of the property if the property is not claimed, the notice shall state that belief and intent; and
- (i) If the personal property includes a recreational vehicle, manufactured dwelling or floating home and if applicable, there is a lienholder or owner that has a right to claim the recreational vehicle, dwelling or home, except as provided by subsection (18) of this section.

(6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder or owner must contact a landlord to arrange for the disposition of abandoned personal property is:

- (a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than 45 days after personal delivery or mailing of the notice; or

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- (b) For all other abandoned personal property, not less than five days after personal delivery or eight days after mailing of the notice.
- (7) After notifying the tenant as required by subsection (3) of this section, the landlord:
- (a) Shall store any abandoned manufactured dwelling or floating home on the rented space and shall exercise reasonable care for the dwelling or home;
- (b) Shall store all other abandoned personal property of the tenant, including goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable care for the personal property, except that the landlord may:
- (A) Promptly dispose of rotting food; and
- (B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal control agency will not remove the abandoned pets or livestock, the landlord shall exercise reasonable care for the animals given all the circumstances, including the type and condition of the animals, and may give the animals to an agency that is willing and able to care for the animals, such as a humane society or similar organization;
- (c) Except for manufactured dwellings and floating homes, may store the abandoned personal property at the dwelling unit, move and store it elsewhere on the premises or move and store it at a commercial storage company or other place of safekeeping; and
- (d) Is entitled to reasonable or actual storage charges and costs incidental to storage or disposal, including any cost of removal to a place of storage. In the case of an abandoned manufactured dwelling or floating home, the storage charge may be no greater than the monthly space rent last payable by the tenant.
- (8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3) or (4) of this section or otherwise, responds by actual notice to the landlord on or before the specified date in the landlord's notice that the tenant, lienholder or owner intends to remove the personal property from the premises or from the place of safekeeping, the landlord must make that personal property available for removal by the tenant, lienholder or owner by appointment at reasonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling or floating home, 30 days following the date of the response, subject to subsection (18) of this section. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS 90.415.
- (9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the personal property within the time required by subsection (8) of this section or by any date agreed to with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is conclusively presumed to be abandoned. The tenant and any lienholder or owner that have been given notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest to the personal property and may not claim or sell the property.
- (10) If the personal property is presumed to be abandoned under subsection (9) of this section, the landlord then may:
- (a) Sell the personal property at a public or private sale, provided that prior to the sale of a recreational vehicle, manufactured dwelling or floating home:
- (A) The landlord may seek to transfer ownership of record of the personal property by complying with the requirements of the appropriate state agency; and
- (B) The landlord shall:
- (i) Place a notice in a newspaper of general circulation in the county in which the recreational vehicle, manufactured dwelling or floating home is located. The notice shall state:
- (I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;
- (II) The tenant's and owner's name, if of record or actually known to the landlord;
- (III) The address and any space number where the recreational vehicle, manufactured dwelling or floating home is located, and any plate, registration or other identification number for a recreational vehicle or floating home noted on the certificate of title, if actually known to the landlord;



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- (IV) Whether the sale is by private bidding or public auction;
  - (V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be accepted; and
  - (VI) The name and telephone number of the person to contact to inspect the recreational vehicle, manufactured dwelling or floating home;
  - (ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal delivery or first class mail, except that for any lienholder, mail service must be by first class mail with certificate of mailing;
  - (iii) Obtain an affidavit of publication from the newspaper to show that the notice required under sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted; and
  - (iv) Obtain written proof from the county that all property taxes and assessments on the manufactured dwelling or floating home have been paid or, if not paid, that the county has authorized the sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section; (b) Destroy or otherwise dispose of the personal property if the landlord determines that:
    - (A) For a manufactured dwelling or floating home, the current market value of the property is \$8,000 or less as determined by the county assessor; or
    - (B) For all other personal property, the reasonable current fair market value is \$500 or less or so low that the cost of storage and conducting a public sale probably exceeds the amount that would be realized from the sale;or
  - (c) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or otherwise dispose of the remaining personal property.
- (11)(a) A public or private sale authorized by this section must:
- (A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable; or
  - (B) For all other personal property, be conducted under the provisions of ORS 79.0610.
- (b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal property is considered to be worth \$8,000 or less, regardless of current market value, and the landlord shall destroy or otherwise dispose of the personal property.
- (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the condition of a manufactured dwelling or floating home, the landlord is not liable for the condition of the dwelling or home to:
- (a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with or without consideration; or
  - (b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursuant to subsection (1)(b), (10)(b) or (11)(b) of this section.
- (13)(a) The landlord may deduct from the proceeds of the sale:
- (A) The reasonable or actual cost of notice, storage and sale; and
  - (B) Unpaid rent.
- (b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to the county tax collector to the extent of any unpaid property taxes and assessments owed on the dwelling or home.
- (c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance owed on the lien on the recreational vehicle, dwelling or home.
- (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if applicable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with an itemized accounting.
- (e) If the tenant or owner cannot after due diligence be found, the landlord shall deposit the remaining proceeds with the county treasurer of the county in which the sale occurred. If not claimed within three years, the deposited proceeds revert to the general fund of the county and are available for general purposes.
- (14) The county tax collector shall cancel all unpaid property taxes and assessments owed on a manufactured dwelling or floating home, as provided under ORS 311.790, only under one of the following circumstances:

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- (a) The landlord disposes of the manufactured dwelling or floating home after a determination described in subsection (10)(b) of this section.(b) There is no buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section.
- (c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section;
- (B) The current market value of the manufactured dwelling or floating home is \$8,000 or less; and
- (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this section.
- (d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under subsection (11) of this section;
- (B) The current market value of the manufactured dwelling or floating home is more than \$8,000;
- (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to subsection (13) of this section; and
- (D) The landlord disposes of the manufactured dwelling or floating home.
- (15) The landlord is not responsible for any loss to the tenant, lienholder or owner resulting from storage of personal property in compliance with this section unless the loss was caused by the landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the landlord is liable for twice the actual damages sustained by the tenant, lienholder or owner.
- (16) Complete compliance in good faith with this section shall constitute a complete defense in any action brought by a tenant, lienholder or owner against a landlord for loss or damage to such personal property disposed of pursuant to this section.
- (17) If a landlord does not comply with this section:
- (a) The tenant is relieved of any liability for damage to the premises caused by conduct that was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the landlord up to twice the actual damages sustained by the tenant;
- (b) A lienholder or owner aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph; and
- (c) A county tax collector aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the tax collector, if the noncompliance is part of an effort by the landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph.
- (18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to any lienholder except that the lienholder may not sell or remove the vehicle, dwelling or home unless:
- (a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or floating home;
- (b) The tenant or a personal representative or designated person described in subsection (20) of this section has waived all rights under this section pursuant to subsection (24) of this section; or
- (c) The notice and response periods provided by subsections (6) and (8) of this section have expired.
- (19)(a) In the case of an abandoned manufactured dwelling or floating home but not including a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests, a landlord shall enter into a written storage agreement with the lienholder providing that the dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage agreement entitles the lienholder to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property.
- (b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee to remove or sell the dwelling or home within the allotted time.
- (c) To exercise the right to a storage agreement under this subsection, in addition to contacting the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder must enter into the proposed

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storage agreement within 60 days after the landlord gives a copy of the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord may include a copy of the proposed storage agreement with the notice of abandoned property required by subsection (4) of this section. A lienholder enters into a storage agreement by signing a copy of the agreement provided by the landlord and personally delivering or mailing the signed copy to the landlord within the 60-day period.

(d) The storage agreement may require, in addition to other provisions agreed to by the landlord and the lienholder, that:

(A) The lienholder make timely periodic payment of all storage charges, as described in subsection (7)(d) of this section, accruing from the commencement of the 45-day period described in subsection (6) of this section. A storage charge may include a utility or service charge, as described in ORS 90.510 (8), if limited to charges for electricity, water, sewer service and natural gas and if incidental to the storage of personal property. A storage charge may not be due more frequently than monthly;

(B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date required in the agreement, if the amount of the late charge is no greater than for late charges described in the rental agreement between the landlord and the tenant; and

(C) The lienholder maintain the personal property and the space on which the personal property is stored in a manner consistent with the rights and obligations described in the rental agreement between the landlord and the tenant.

(e) During the term of an agreement described under this subsection, the lienholder has the right to remove or sell the property, subject to the provisions of the lien. Selling the property includes a sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

(f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the lienholder.

(B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written notice to the landlord and may remove the property from the rented space if the lienholder has paid all storage charges and other charges as provided in the agreement.

(g) Upon the failure of a lienholder to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the lienholder has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the lienholder.

(20) If the personal property consists of an abandoned manufactured dwelling or floating home and is considered abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling or home, this section applies, except as follows:

(a) Any personal representative named in a will or appointed by a court to act for the deceased tenant or any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death has the same rights and responsibilities regarding the abandoned dwelling or home as a tenant.

(b) The notice required by subsection (3) of this section must be:

(A) Sent by first class mail to the deceased tenant at the premises; and

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(B) Personally delivered or sent by first class mail to any personal representative or designated person if actually known to the landlord.

(c) The notice described in subsection (5) of this section must refer to any personal representative or designated person, instead of the deceased tenant, and must incorporate the provisions of this subsection.

(d) If a personal representative, designated person or other person entitled to possession of the property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period provided by subsection (6) of this section and so requests, the landlord shall enter into a written storage agreement with the representative or person providing that the dwelling or home may not be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate proceedings, whichever is later. A storage agreement entitles the representative or person to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the agreement with the personal representative or designated person ends.

(e) If a personal representative or other person requests that a landlord enter into a storage agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person having the rights and responsibilities of a lienholder with regard to the storage agreement.

(f) During the term of an agreement described under paragraph (d) of this subsection, the representative or person has the right to remove or sell the dwelling or home, including a sale to a purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser, heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord regarding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid storage charges and maintenance costs.

(g) If the representative or person violates the storage agreement, the landlord may terminate the agreement by giving at least 30 days' written notice to the representative or person stating facts sufficient to notify the representative or person of the reason for the termination. Unless the representative or person corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the representative or person.

(h) Upon the failure of a representative or person to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the representative or person has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the representative or person.

(21) If a governmental agency determines that the condition of a manufactured dwelling, floating home or recreational vehicle abandoned under this section constitutes an extreme health or safety hazard under state or local law and the agency determines that the hazard endangers others in the immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of the property pursuant to this subsection. The landlord shall comply with all provisions of this section, except as follows:

(a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner, personal representative or designated person must contact a landlord to arrange for the disposition of the property must be not less than 15 days after personal delivery or mailing of the notice required by subsection (3) of this section.

(b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder, owner, personal representative or designated person must remove the property must be not less than seven days after the tenant, lienholder, owner, personal representative or designated person contacts the landlord.

(c) The notice required by subsection (3) of this section must be as provided in subsection (5) of this section, except that: (A) The dates and deadlines in the notice for contacting the landlord and removing the property must be consistent with this subsection;

(B) The notice must state that a governmental agency has determined that the property constitutes an extreme health or safety hazard and must be removed quickly; and

(C) The landlord shall attach a copy of the agency's determination to the notice.

(d) If the tenant, a lienholder, owner, personal representative or designated person does not remove the

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property within the time allowed, the landlord or a buyer at a sale by the landlord under subsection (11) of this section shall promptly remove the property from the facility.

(e) A landlord is not required to enter into a storage agreement with a lienholder, owner, personal representative or designated person pursuant to subsection (19) of this section.

(22) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home that is owned by someone other than the tenant, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to that owner, with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the vehicle, dwelling or home.

(23) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 and 98.835 for removal of abandoned motor vehicles from private property may be used by a landlord as an alternative to the procedures required in this section.

(24)(a) A landlord may sell or dispose of a tenant's abandoned personal property without complying with the provisions of this section if, after termination of the tenancy or no more than seven days prior to the termination of the tenancy, the following parties so agree in a writing entered into in good faith:

(A) The landlord;

(B) The tenant, or for an abandonment as the result of the death of a tenant who was the only tenant, the personal representative, designated person or other person entitled to possession of the personal property, such as an heir or devisee, as described in subsection (20) of this section; and

(C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and any lienholder.

(b) A landlord may not, as part of a rental agreement, require a tenant, a personal representative, a designated person or any lienholder or owner to waive any right provided by this section.

(25) Until personal property is conclusively presumed to be abandoned under subsection (9) of this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal property.

[Formerly 91.840; 1993 c.18 §15; 1993 c.369 §14; 1995 c.559 §31; 1997 c.577 §25; 1999 c.603 §28; 2001 c.44 §1; 2001 c.445 §165; 2001 c.596 §35; 2003 c.378 §14; 2003 c.658 §5]

### **98.805 Definitions for ORS 98.810 to 98.818.**

As used in ORS 98.810 to 98.818:

(1) "Owner of a parking facility" means:

(a) The owner, lessee or person in lawful possession of a private parking facility; or

(b) Any officer or agency of this state with authority to control or operate a parking facility.

(2) "Owner of proscribed property" means the owner, lessee or person in lawful possession of proscribed property.

(3) "Parking facility" means any property used for vehicle parking.

(4) "Proscribed property" means any part of private property:

(a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or

(b) That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling or duplex.

(5) "Tower" means a person issued a towing business certificate under ORS 822.205.

(6) "Vehicle" has the meaning given that term in ORS 801.590.

[1979 c.100 s.2; 1981 c.861 s.23; 1983 c.436 s.2]

### **98.810 Unauthorized parking of vehicle at proscribed property prohibited.**

No 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 public parking thereon or restricting parking thereon.

(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 s.1; 1979 c.100 s.3; 1981 c.861 s.24; 1983 c.436 s.3]

## Statutes Referenced on Oregon DMV Forms

### **98.812 Storage of unlawfully parked vehicle; lien for storage charges; notice requirements.**

- (1) If a vehicle has been left or parked in violation of ORS 98.810, 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 who tows a vehicle at the request of an owner of a parking facility or the owner of proscribed property under this section shall provide to the owner or operator of the vehicle the information required in 2007 Oregon Laws, Chapter 538, Section 11.
- (3) 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 thereof until the just and reasonable charges for the towage, care and storage of the vehicle have been paid if the tower complies with the following requirements:
- (a) The tower shall notify the local law enforcement agency of the location of the towed vehicle within one hour after the vehicle is placed in storage;
- (b) If the towed vehicle is registered in Oregon, the tower shall give notice, within 15 days after the vehicle is placed in storage, to the owner or any other person with an interest in the vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day period, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and
- (c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the vehicle is placed in storage, notify and request the title information and the name and address of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed vehicle is registered. The tower shall have 15 days from the date of receipt of the information from the state motor vehicle agency to notify the owner of the towed vehicle or any other person with an interest in the vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15 days from the receipt of information from the state motor vehicle agency, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the period between storage of the towed vehicle and receipt of information from the state motor vehicle agency for towage, care and storage of the vehicle.
- (3) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [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]

### **98.830 Towing abandoned vehicle from private property; conditions.**

- A person who is the owner, or is in lawful possession, of private property on which a vehicle has been abandoned may have a tower tow the vehicle from the property if:
- (1) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed. The notice required by this subsection must remain on the vehicle for 72 hours before the vehicle may be removed.
- (2) The person fills out and signs a form that includes:
- (a) A description of the vehicle to be towed;
- (b) The location of the property from which the vehicle will be towed; and
- (c) A statement that the person has complied with subsection (1) of this section. [1995 c.758 s.1]

## Statutes Referenced on Oregon DMV Forms

### **98.835 Immunity from civil liability for towing abandoned vehicle; lien for towing, storage and care.**

(1) A tower who tows a vehicle pursuant to ORS 98.830 is immune from civil liability for towing the vehicle if the tower has a form described in ORS 98.830 (2), filled out by a person purporting to be the owner or a person in lawful possession of the private property from which the vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

(2) The tower who tows a vehicle pursuant to ORS 98.830 is entitled to a lien on the towed vehicle and its contents for the tower's just and reasonable charges. The tower may retain possession of the towed vehicle until the just and reasonable charges for the towage, care and storage of the towed vehicle have been paid if the tower complies with the following requirements:

(a) The tower shall notify the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage;

(b) If the towed vehicle is registered in Oregon, the tower shall give notice by first class mail with a certificate of mailing, within 15 days after the towed vehicle is placed in storage, to the owner of the towed vehicle and any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day period, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

(c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the towed vehicle is placed in storage, notify and request the title information and the name and address of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed vehicle is registered. The tower shall have 15 days from the date of receipt of the information from the state motor vehicle agency to notify the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15 days from the receipt of information from the state motor vehicle agency, but need not be received within that period, but within a reasonable time. If the person fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the period between storage of the towed vehicle and receipt of information from the state motor vehicle agency for towage, care and storage of the towed vehicle.

(3) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [1995 c.758 §2; 2001 c.424 §2]

### **806.010 Driving uninsured prohibited; penalty.**

(1) A person commits the offense of driving uninsured if the person operates a motor vehicle in this state on any highway or premises open to the public in this state without either:

(a) The person being insured while driving the vehicle under a motor vehicle liability insurance policy that meets the requirements described under ORS 806.080; or

(b) The person or the owner of the vehicle providing the Department of Transportation with other satisfactory proof of compliance with the financial responsibility requirements of this state.

(2) Exemptions from this section are established under ORS 806.020.

(3) In addition to other penalties under this section the following apply:

(a) A person who is involved in a motor vehicle accident at any time the person is in violation of this section is subject to suspension of the person's driving privileges under ORS 809.417.

(b) A person who is convicted of violating this section is subject to ORS 806.230, if the person does not make future responsibility filings as required by that section.

(4) A person convicted for violation of this section must file with the department, and thereafter maintain for a period of three years, proof of financial responsibility that complies with ORS 806.060. Failure to comply with this subsection is subject to ORS 809.415.

(5) The offense described in this section, driving uninsured, is a Class B traffic violation. [1983 c.338 §837; 1985 c.16 §422; 1985 c.714 §1; 1991 c.350 §1; 1991 c.702 §4; 2003 c.402 §12]

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### **809.720 Impoundment for specified offenses; grounds; notice; release.**

- (1) A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearing officer. This subsection applies to the following offenses:
- (a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.
  - (b) Driving while under the influence of intoxicants in violation of ORS 813.010.
  - (c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.
  - (d) Driving uninsured in violation of ORS 806.010.
- (2) Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.
- (3) A vehicle impounded under subsection (1) of this section shall be released to a person entitled to lawful possession upon compliance with the following:
- (a) Submission of proof that a person with valid driving privileges will be operating the vehicle;
  - (b) Submission of proof of compliance with financial responsibility requirements for the vehicle; and
  - (c) Payment to the police agency of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment.
- (4) Notwithstanding subsection (3) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.
- (5) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (3) or (4) of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.
- (6) Notwithstanding subsection (3) of this section, the holder of a towing business certificate issued under ORS 822.205 may foreclose a lien created by ORS 87.152 for the towing and storage charges incurred in the impoundment of the vehicle, without payment of the administrative fee under subsection (3)(c) of this section.
- (7) Nothing in this section or ORS 809.716 limits either the authority of a city or county to adopt ordinances dealing with impounding of uninsured vehicles or the contents of such ordinances except that cities and counties shall comply with the notice requirements of subsection (2) of this section and ORS 809.725.
- (8) A police agency may not collect its fee under subsection (3)(c) of this section from a holder of a towing business certificate issued under ORS 822.205 unless the holder has first collected payment of any towing and storage charges associated with the impoundment. [1997 c.514 §2; 2001 c.748 §1]

**Note:** Section 4, chapter 748, Oregon Laws 2001, provides:

- Sec. 4.** (1) The amendments to ORS 809.716 and 809.720 by sections 1 and 3 of this 2001 Act and the repeal of ORS 809.715 by section 2 of this 2001 Act apply to vehicles impounded on or after the effective date of this 2001 Act [January 1, 2002].
- (2) A vehicle impounded pursuant to ORS 809.715 (1999 Edition) that has not been released or otherwise disposed of prior to the effective date of this 2001 Act shall be considered to have been impounded pursuant to ORS 809.720. [2001 c.748 4]

### **811.555 Illegal stopping, standing or parking; affirmative defense; penalty.**

- (1) A person commits the offense of illegal stopping, standing or parking if:
- (a) The person stops, parks or leaves standing a vehicle in a place where such stopping, parking or standing is prohibited under ORS 811.550; or
  - (b) The person is the owner of an unattended vehicle parked in a place where such parking is prohibited under ORS 811.550.
- (2) Exemptions from this section are established under ORS 811.560.
- (3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is stopped, parked or left standing in violation of this section.
- (4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.
- (5) The offense described by this section, illegal stopping, standing or parking, is a Class D traffic infraction. [1983 c.338 s.668; 1987 c.687 s.4]



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### **811.570 Improperly positioning parallel parked vehicle; exception; affirmative defense; penalty.**

- (1) A person commits the offense of improperly positioning a parallel parked vehicle if:
  - (a) The person stops or parks a vehicle on a highway where parallel parking is permitted and the vehicle is not parked in accordance with the following:
    - (A) Upon a two-way highway, the vehicle shall be positioned so that the right-hand wheels are parallel to and within 12 inches of the right curb or, if none, as close as possible to the right edge of the right shoulder.
    - (B) On a one-way highway where parallel parking is permitted on either side, a vehicle parked or stopped on the right side shall be positioned in accordance with the requirements of subparagraph (A) of this paragraph and a vehicle parked or stopped on the left side shall be positioned so that the left-hand wheels are parallel to and within 12 inches of the left curb or, if none, as close as possible to the left edge of the left shoulder.
    - (C) Where marked parking spaces are provided, a vehicle shall be positioned so that it faces in the direction in which vehicles in the adjacent lane of the roadway are required to travel and so that the wheels are within the parking space markings which are parallel to the curb or, if none, to the edge of the shoulder; or
  - (b) The person is the owner of an unattended vehicle parked on a highway in violation of paragraph (a) of this subsection.
- (2) The provisions of this section do not apply to the driver of a vehicle that is disabled in such manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled vehicle in a position prohibited by this section.
- (3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is parked in violation of this section.
- (4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.
- (5) The offense described in this section, improperly positioning a parallel parked vehicle, is a Class D traffic infraction. [1983 c.338 s.671; 1987 c.687 s.5]

### **819.110 Removal and sale of abandoned vehicle; general provisions.**

- (1) After providing notice required under ORS 819.170 and, if requested, a hearing under ORS 819.190, an authority described under ORS 819.140 may take a vehicle into custody and remove 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 authority in this section to remove and take vehicles into custody is in addition to any authority to remove and take vehicles into custody under ORS 819.120.
- (3) Subject to ORS 819.150, vehicles and the contents of vehicles removed and taken into custody under this section are subject to a lien as provided under ORS 819.160.
- (4) An authority removing a vehicle under this section shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.230.
- (5) Vehicles removed and taken into custody under this section are subject to sale under ORS 819.210 or 819.220 if the vehicles are not reclaimed as provided under ORS 819.150 or returned to the owner or person entitled to possession under ORS 819.190. [1983 c.338 s.417; 1995 c.758 s.8]

## Statutes Referenced on Oregon DMV Forms

### **819.120 Immediate custody and removal of vehicle constituting hazard.**

- (1) An authority described under ORS 819.140 may immediately take custody of 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) After taking a vehicle into custody under this section an authority taking custody of a vehicle is required to give the notice described under ORS 819.180 and, if requested, a hearing described under ORS 819.190.
- (5) The authority in this section to remove and take vehicles into custody is in addition to any authority to remove and take vehicles into custody under ORS 819.110.
- (6) Subject to ORS 819.150, vehicles and the contents of vehicles removed and taken into custody under this section are subject to a lien as provided under ORS 819.160.
- (7) An authority removing a vehicle under this section shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.230.
- (8) Vehicles removed and taken into custody under this section are subject to sale or disposition under ORS 819.210 or 819.220 if the vehicles are not reclaimed under ORS 819.150 or returned to the owner or person entitled thereto under ORS 819.190.
- (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 s.418; 1985 c.77 s.1; 1991 c.464 s.1; 1995 c.758 s.9]

### **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, 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 819.230.
  - (b) A vehicle taken into custody under ORS 819.110 or 819.120, unless it is an abandoned vehicle appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230.
  - (c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.
- (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, if the person who tows the vehicle fails to comply with the notice requirements of subsection (3) of this section, the amount of any lien claimed under this paragraph shall be limited to an amount equal to the just and reasonable charges for the towing service performed and storage provided for a period not exceeding 20 days from the date the vehicle and its contents were placed in storage. The lien shall be subject to the provisions for liens under ORS 98.812 (3). The person holding the lien may retain possession of the vehicle and contents until the charges on which the lien is based are paid. 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 or 811.570.
- (3) A person who tows any vehicle at the request of an authority under ORS 819.110 or 819.120 shall transmit by first class mail with a certificate of mailing, within 20 days 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. 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 who tows

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an abandoned vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230. [1983 c.338 s.422; 1985 c.16 s.223; 1993 c.326 s.5; 1993 c.385 s.6; 1995 c.79 s.379; 1995 c.758 s.12]

### **819.230 Appraiser certificate; qualification; issuance; renewal; revocation; suspension.**

(1) A person who is issued an appraiser certificate by the Department of Transportation under this section is qualified to appraise vehicles for sale under ORS 819.210 and 819.220.

(2) The department shall establish rules to provide for issuance of 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 appraiser certificates to persons who qualify under the rules of the department.

(c) Procedures and grounds for revocation or suspension of 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 appraiser certificates issued under this section.

(3) Appraiser certificates issued under this section are subject to the following:

(a) A certificate shall expire two years from the date of issuance unless renewed according to the rules of the department.

(b) The department shall not issue an appraiser certificate to a person until the person has paid the fee for issuance of an appraiser certificate under ORS 822.700.

(c) The department shall not renew an appraiser certificate issued under this section until the holder has paid the fee for renewal of an appraiser certificate under ORS 822.700. [1983 c.338 s.810]