



## OREGON LEGISLATIVE POLICY & RESEARCH OFFICE

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*December 1996*

### Basics About . . . **Construction Liens & “Pay Twice”**

Oregon’s construction lien law has a powerful basic rationale. The law protects people and businesses that provide, equipment, materials, or labor to construction projects. It does so by providing them a right to go to court to be paid for the value they added to the real property. Subcontractors, workers, and material suppliers can put a claim (lien) against the owner’s property in order to ensure payment, even if the owner has paid the original contractor.

The construction lien law creates the possibility that property owners may be put in the situation that they have to pay twice in order to satisfy the responsibility they have to assure that all bills are paid for the value added to their real property, even if they have paid the contractor in full. This may force some owners to sell their property.

Oregon’s construction lien law, ORS 87.001 to 87.093, dates back over 100 years, to at least 1885. Section 1 of that 1885 law provided that: *“Every...contractor...performing labor or furnishing material of any kind to be used in the construction...of any building...or other structure...shall have a lien...[on that structure]...whether done...at the instance of the owner...or his agent, and every contractor...having charge of the construction...shall be held to be the agent of the owner.”* A 1965 revision to the law clarified the pay-twice provision by adding the statement (to notice requirements contained in the law) that: *“...payment by the owner or lender to the contractor does not remove the right of the person furnishing materials or supplies to claim a lien against the property unless the person giving the notice is in fact paid.”* The most recent substantial change to the law was made in 1975, a re-writing of the law, naming it the “Construction Lien Law”, retaining the pay-twice provision while adding a number of formal notice and deadline requirements, including those contained in ORS 87.021 and 87.025. The 1981 Legislature added the “Information Notice to Owner” provision of ORS 87.093.

According to the Construction Contractors Board, the existence of the lien law is what makes it possible for subcontractors, suppliers, and contractors to extend credit worth many thousands of dollars on construction projects, allowing the projects to be constructed in orderly stages, eliminating unnecessary disruptions and disputes over immediate payment for services and supplies. **Without the construction lien law, contractors, subcontractors, suppliers, and others involved in the construction process might not be willing to begin work or make deliveries until after they were paid in full.** While the “pay-twice” provision appears to be unfair to homeowners, the situation very seldom actually occurs. That is because of the numerous homeowner protections built into the law, including notice requirements, filing deadlines, and the Construction Contractors Board claim process (ORS chapter 701).

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