

OREGON CONSTRUCTION LIEN STEPS

(for privately-owned projects and interests only)

<p>Date contract forms.</p> 	<p>Prime Contractor to Owner of Residential Project: Must give an Information Notice To Owner (an Oregon Construction Contractors Board form) <u>and</u> have a written contract in compliance with ORS 87.037.</p>										
<p>Start of your performance.</p> 	<p>Notice of Right to a Lien (“NORTAL”) is required depending on who you contract with, what you do, and sometimes whether the project is “residential.” NORTALS are a statutory form sent by certified mail to owners (which include tenants, contract vendees and any other person claiming a title interest) and lenders. A NORTAL can be sent anytime during the project, but if the notice is required, <u>it only preserves lien rights for performance rendered within eight business days prior to notice mailing date.</u> For this type of notice only, the term “residential” means “means a building or structure that is or will be occupied by the owner as a residence and that contains not more than four units capable of being used as residences or homes.” See ORS 87.021(3)(b)(A).</p> <table border="1" data-bbox="326 709 1528 974"> <tr> <th colspan="2" style="background-color: black; color: white;">Persons who must timely send NORTAL to have lien rights*:</th> </tr> <tr> <td style="background-color: #e0e0e0;">Onsite Labor provided (or labor and materials)</td> <td>Required if project is “residential” and your contract is not with the owner.</td> </tr> <tr> <td style="background-color: #e0e0e0;">Materials only</td> <td>Required on <u>every</u> project unless contract is with the owner.</td> </tr> <tr> <td style="background-color: #e0e0e0;">Rental Equipment only</td> <td>Required if project is “residential” and your contract is not with the owner.</td> </tr> <tr> <td style="background-color: #e0e0e0;">Professional services (architects, surveyors, engineers)</td> <td>Required for <u>every</u> project unless contract is with the owner.</td> </tr> </table> <p style="background-color: black; color: white; padding: 5px;"><i>*Even if not required, sending a NORTAL may significantly improve collection rights for materials from lenders and rights against absentee owners.</i></p> <p>Verify customer is a licensed contractor: Beginning Jan. 1, 2011, on owner-occupied residential remodel projects, subcontractors and material suppliers do not have lien rights unless its customer is licensed on the earlier of the date of contracting or the first performance, with very limited exceptions.</p>	Persons who must timely send NORTAL to have lien rights*:		Onsite Labor provided (or labor and materials)	Required if project is “ residential ” and your contract is not with the owner.	Materials only	Required on <u>every</u> project unless contract is with the owner.	Rental Equipment only	Required if project is “ residential ” and your contract is not with the owner.	Professional services (architects, surveyors, engineers)	Required for <u>every</u> project unless contract is with the owner.
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<p>Prior To 75 Day Deadline - Record Lien</p> 	<p>All contractors, material suppliers, rental suppliers and employees: Record a construction lien in the county real property records <u>within 75 calendar days of the earlier of: The last substantial day of your performance or substantial completion of the entire project.</u> Insignificant amounts of performance or repair/replacement of your defective performance usually does not qualify as your last substantial day – count from an earlier day!</p> <p>Architects, surveyors and engineers: Record a construction lien within 75 days of substantial completion or abandonment of project (which may occur long after your performance is done).</p>										
<p>Within 20 Days - Mail Notice and Copy of Lien</p> 	<p>After recording, a copy of the lien must be sent by certified mail to the owners and lenders within <u>twenty calendar days</u>. Some combine this mailing with the <u>10 day notice of intent to foreclose</u> to owners and lenders that is a condition for recovery of statutory attorney fees in a foreclosure lawsuit; But watch for owner demands for information in response that require appropriate response within 5 calendar days or result in the loss of statutory attorney fee rights.</p>										
<p>About 90 Days After Recording Lien</p> 	<p>Retain attorney to prepare lien foreclosure lawsuit. Deadline to file foreclosure lawsuit is <u>120 days</u> after recording the lien, but extra time is needed to perform a title search and <u>deliver a 10 day notice of intent to foreclose</u> to any owners and lenders disclosed by the title search. An additional 30 days to serve the notice may be desirable in certain consumer situations due to the potential application of the Fair Debt Collection Practices Act. ORS 87.060 provides for recovery of attorney fees if statutory post-lien notice and information request requirements are satisfied. A lawsuit must be filed in the court where the real property is located even if the contract requires arbitration.</p>										

This summary provides general information about a complicated and often-changing area of law. This summary should **not** take the place of individualized legal advice. Some of the terms used above have specific statutory meanings. There may be other significant legal requirements or limitations to your ability to record a valid construction lien, including but not limited to state licensure requirements. © Douglas Gallagher Law Office 2011 / www.dglawoffice.com