



Testimony with Regard to Mechanics' Liens

Submitted by:

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Good afternoon Chair Holvey and members of the Committee. Our names are Veronica Ervin, Vice President /Compliance Director and Steven Epling, Assistant Collections Manager at OnPoint Community Credit Union. OnPoint is the largest credit union headquartered in Oregon, serving more than 259,000 members as a member-owned, not-for-profit financial cooperative.

Auto lending is a traditional core product provided by credit unions to our members, and it is through an aspect of this product that we approach you today, to discuss concerns around mechanics' liens that can be placed on vehicles inappropriately, with the current laws and practices. These practices negatively impact our members (Oregon consumers), as well as financial institutions such as credit unions and others that make auto loans. A description of current requirements and practices follows, to provide an overview of today's situation and the issues it presents.

Under Oregon law, mechanics that perform work on an automobile may enforce a lien against that auto if they are not paid for their work. The law requires that they (1) obtain authorization that the work be completed, and (2) notify any existing owners and lienholders of their enforcement of their lien. If these steps are taken, they can complete the required paperwork at the Department of Motor Vehicles (DMV) to place their lien on the auto, causing others with interests in the vehicle, including their customer and any lenders, to be stripped of their title to the vehicle. Through our research, we have found that the DMV processes the mechanic's lien without requiring the mechanic to demonstrate that they have met the two requirements noted above.

When this process is conducted by a reputable mechanic, it works as intended, resulting in the mechanic being paid for their work and other lienholders resuming their rightful title to the auto. However

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financial institutions such as OnPoint witness unscrupulous entities that gain the right to place a mechanic's lien, and then do so for exorbitant amounts (inflated by unreasonable fees for storage and other unsupported items), gain possession of the vehicle and dispose of it through exporting or parts to make money. The rightful owners of the auto, Oregon consumers and auto lenders, are left holding the bag, causing financial losses to both. If the owners or lienholders choose to sue to regain title to the vehicle, they are faced with having to post bond for twice the amount of the mechanic's lien, plus incur approximately \$5,000 in legal costs, which are not reimbursed by the defendant even if the plaintiff wins the suit. This financial burden, along with the time and knowledge needed to build a case, are substantial impediments to bringing suit against the unscrupulous entities, and therefore this path is usually not pursued.

OnPoint has seen approximately 12 cases this year of unscrupulous mechanics, tow yards or parking garages taking possession of our members' vehicles, and having limited ability to remedy these situations. We can provide one or more detailed examples of this, at your request.

Each case of improperly-enforced lien typically has several costs, including:

Costs to our member:

- \$5,000 to \$10,000 in costs, including the loss of their vehicle
- Reduced vehicle condition, if the vehicle is recovered
- Damaged credit, if unable to keep up loan payments (on deficiency balance)
- Emotional distress

Costs to OnPoint:

- \$5,000 to \$10,000 in costs, including attorney costs, vehicle skip tracing costs, charged off loan amounts
- Up to 20 hours of operational time

This situation is not unique to OnPoint, though, as other auto lenders experience it regularly, as well. We view the current breakdowns described above as unintended consequences, which require some minor adjustments to update our laws, balancing the needs of consumers, lenders and other businesses. We believe that two changes can achieve more balanced results:

- Require entities placing mechanics' liens to demonstrate that they have taken the required steps to place the lien (obtained the customer's authorization and notified other lien holders within required time frames) prior to obtaining title;
- Grant payment of attorney fees to the winner of law suits brought under these circumstances.

Thank you for the opportunity to discuss this important matter, and for considering options to improve outcomes for Oregon consumers and auto lenders while honoring the needs of mechanics.