

Senate Bill 56

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Secretary of State to maintain Statewide Lien Register. Allows state agencies that have authority to issue warrants to transmit notice of lien to Secretary of State for filing in register. Specifies effect of filing notice of lien. Allows state agencies to amend notice of lien. Allows state agencies to release, subordinate or extend lien. Requires state agencies to release lien when debt on which warrant is based is satisfied. Allows Secretary of State to specify format for notice or certificate of extension and manner in which state agencies transmit notice or certificate for filing in register.

A BILL FOR AN ACT

1 Relating to a statewide lien register.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. Sections 2 to 11 of this 2015 Act are added to and made a part of ORS**
4 **chapter 87.**

5 **SECTION 2. (1) The Secretary of State shall maintain a Statewide Lien Register for the**
6 **purpose of filing notices of lien under warrants described in section 3 of this 2015 Act. Only**
7 **state agencies may transmit notices of lien to the Secretary of State for filing in the State-**
8 **wide Lien Register.**

9 **(2)(a) The Secretary of State shall maintain the Statewide Lien Register as an electronic**
10 **database to which the public has access through the Internet under the conditions specified**
11 **in paragraph (b) of this subsection.**

12 **(b) The Secretary of State shall provide the public with access to information concerning**
13 **notices of lien that the Secretary of State files in the Statewide Lien Register under the**
14 **same conditions, in the same form and to the same extent that the Secretary of State pro-**
15 **vides information on financing statements that the Secretary of State files under ORS**
16 **chapter 79.**

17 **SECTION 3. (1) A state agency that has authority to issue a warrant to collect a tax or**
18 **debt owed to the State of Oregon, including but not limited to a warrant that a state agency**
19 **issues under ORS 179.655, 267.385, 293.250, 314.430, 316.207, 319.182, 319.742, 320.080, 321.570,**
20 **323.390, 323.610, 324.190, 411.703, 657.396, 657.642, 705.175 or 825.504, may transmit an elec-**
21 **tronic notice of lien for the warrant to the Secretary of State for filing with the Statewide**
22 **Lien Register. The state agency may transmit a single notice of lien for two or more war-**
23 **rants against a debtor.**

24 **(2) A state agency must include in a notice of lien that the state agency transmits to the**
25 **Secretary of State:**

26 **(a) The debtor's name and last-known address;**
27

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) The state agency's name and address and information about the state agency that
2 allows an interested person to contact the state agency about the debt, the notice or the
3 warrant;

4 (c) The balance due on the debt;

5 (d) The rate of and manner in which interest accrues on the debt, the date from which
6 interest accrues and the principal upon which interest accrues; and

7 (e) Other information the Secretary of State requires.

8 (3) A state agency may transmit a notice of lien to the Secretary of State at any time
9 after the state agency issues a warrant.

10 (4) The Secretary of State shall post the information necessary to contact a state agency
11 that has filed a notice of lien under this section on the website by means of which the public
12 has access to the Statewide Lien Register.

13 **SECTION 4.** (1) The Secretary of State shall note in the Statewide Lien Register when
14 the Secretary of State receives from a state agency a notice of lien that meets the require-
15 ments specified under section 9 of this 2015 Act. The Secretary of State's notation files the
16 notice of lien and creates a lien in favor of the state agency on the debtor's real and personal
17 property as of the time of filing. The lien is for the amount of the debt owed on the warrant
18 for which the state agency transmitted the notice of lien.

19 (2) At the time the Secretary of State files the notice of lien in the Statewide Lien Reg-
20 ister, a lien that the filing creates under subsection (1) of this section has the same lien ef-
21 fect that recording a judgment under ORS 18.152 in all of the County Clerk Lien Records for
22 the counties of this state would have.

23 (3)(a) A lien that a filing creates under subsection (1) of this section is subordinate to
24 an interest in personal property to the same extent that a security agreement for the per-
25 sonal property that is perfected by filing under the Uniform Commercial Code would be
26 subordinate to the interest if the security agreement were perfected by filing at the same
27 time as the time at which the Secretary of State filed the notice of lien in the Statewide Lien
28 Register.

29 (b) Unless the purchaser, security interest holder or lienholder has actual knowledge of
30 a lien created under subsection (1) of this section, the lien is not valid against a security
31 interest holder's security agreement for, a lienholder's or attorney's lien on or a sale of:

32 (A) A security, as defined in ORS 78.1020;

33 (B) A retail purchase in the ordinary course of business;

34 (C) Personal property in a casual sale;

35 (D) An insurance contract loan; or

36 (E) A passbook loan.

37 (c) A lien created under subsection (1) of this section is in addition to and not in lieu of
38 another lien or remedy that is available to a state agency.

39 **SECTION 5.** (1) A state agency that has transmitted a notice of lien for filing under
40 section 3 of this 2015 Act may transmit to the Secretary of State for filing in the Statewide
41 Lien Register an electronic notice of amendment for the previously filed notice of lien. The
42 Secretary of State shall note when the Secretary of State receives the notice of amendment
43 and shall file the notice of amendment in the manner provided for filing a notice of lien under
44 section 4 of this 2015 Act.

45 (2)(a) Filing a notice of amendment for a lien on real property has the same effect on the

1 previously filed lien as rerecording a mortgage lien or trust deed in the County Clerk Lien
2 Record would have on a previously recorded mortgage or trust deed.

3 (b) A state agency may transmit and the Secretary of State may file a notice of amend-
4 ment only for changes in the lien on real property that could be made in a previously re-
5 corded mortgage or trust deed by rerecording the mortgage or trust deed in the County
6 Clerk Lien Record.

7 (3) A notice of amendment must include the debtor's name, the date on which the Sec-
8 retary of State filed the original notice of lien and other information the Secretary of State
9 requires.

10 **SECTION 6.** (1) A state agency that has transmitted a notice of lien for filing under
11 section 3 of this 2015 Act may transmit an electronic release of lien or an electronic subor-
12 dination of lien to the Secretary of State for filing in the Statewide Lien Register. The Sec-
13 retary of State shall note when the Secretary of State receives the release of lien or
14 subordination of lien and shall file the release of lien or subordination of lien in the manner
15 provided for filing a notice of lien under section 4 of this 2015 Act.

16 (2) A state agency may release or subordinate a lien that a filing creates under section
17 4 of this 2015 Act to the same extent that the state agency may release or subordinate other
18 liens that are based on warrants that the state agency issued. The release of lien or subor-
19 dination of lien must specifically identify the notice of lien the state agency intends to re-
20 lease or subordinate and must include information that the Secretary of State requires. The
21 release of lien may be for all or a part of the debtor's property.

22 **SECTION 7.** (1) Except as otherwise provided in this section, a lien that a filing creates
23 under section 4 of this 2015 Act expires 10 years after the Secretary of State files the notice
24 of lien.

25 (2) At any time before a lien expires as provided in subsection (1) of this section, a state
26 agency may transmit a certificate of extension for the lien to the Secretary of State for filing
27 in the Statewide Lien Register. The Secretary of State shall note when the Secretary of State
28 receives the certificate of extension and shall file the certificate of extension in the manner
29 provided for filing a notice of lien under section 4 of this 2015 Act. If the state agency
30 transmits the certificate of extension after the lien expires as provided in subsection (1) of
31 this section, filing the extension of lien has no effect. The certificate of extension must in-
32 clude information that the Secretary of State requires.

33 (3) If a state agency transmits a certificate of extension for a previously filed notice of
34 lien before the lien expires as provided in subsection (1) of this section, the lien expires 10
35 years after the Secretary of State files the certificate of extension. A state agency may ex-
36 tend a lien under the provisions of this section only once.

37 **SECTION 8.** A state agency that has transmitted a notice of lien for filing under section
38 3 of this 2015 Act shall transmit a release of lien to the Secretary of State for filing in the
39 Statewide Lien Register as soon as is practicable after the debt on which the lien is based
40 is satisfied. The Secretary of State shall note when the Secretary of State receives the re-
41 lease of lien and shall file the release of lien in the manner provided for filing a notice of lien
42 under section 4 of this 2015 Act. After the state agency releases the lien, the Secretary of
43 State shall eliminate all references to the lien from the Statewide Lien Register within a
44 period of time the Secretary of State establishes.

45 **SECTION 9.** (1) The Secretary of State shall specify the format for a notice or certificate

1 that a state agency transmits for filing in the Statewide Lien Register and the manner in
2 which the state agency must transmit the notice or certificate. The Secretary of State shall
3 file a notice or certificate only if the state agency has transmitted the notice or certificate
4 in the format and manner that the Secretary of State specifies.

5 (2) The Secretary of State may establish a fee for accepting a notice or certificate that
6 a state agency transmits to the Secretary of State for filing in the Statewide Lien Register.
7 The Secretary of State may establish a fee for providing access to or information from the
8 Statewide Lien Register.

9 SECTION 10. The Secretary of State may adopt rules for implementing the provisions of
10 sections 2 to 9 of this 2015 Act.

11 SECTION 11. A state agency may transmit a notice of lien under section 3 of this 2015
12 Act and the Secretary of State may file the notice of lien under section 4 of this 2015 Act for
13 any warrant that the state agency issues before, on or after the effective date of this 2015
14 Act.