

Title 60

LIENS

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Chapter 60.04 RCW

MECHANICS' AND MATERIALMEN'S LIENS

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60.04.011 Definitions. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Construction agent" means any registered or licensed contractor, registered or licensed subcontractor, architect, engineer, or other person having charge of any improvement to real property, who shall be deemed the agent of the owner for the limited purpose of establishing the lien created by this chapter.

(2) "Contract price" means the amount agreed upon by the contracting parties, or if no amount is agreed upon, then the customary and reasonable charge therefor.

(3) "Draws" means periodic disbursements of interim or construction financing by a lender.

(4) "Furnishing labor, professional services, materials, or equipment" means the performance of any labor or professional services, the contribution owed to any employee benefit plan on account of any labor, the provision of any supplies or materials, and the renting, leasing, or otherwise supplying of equipment for the improvement of real property.

(5) "Improvement" means: (a) Constructing, altering, repairing, remodeling, demolishing, clearing, grading, or filling in, of, to, or upon any real property or street or road in front of or adjoining the same; (b) planting of trees, vines, shrubs, plants, hedges, or lawns, or providing other landscaping materials on any real property; and (c) providing professional services upon real property or in preparation for or in

conjunction with the intended activities in (a) or (b) of this subsection.

(6) "Interim or construction financing" means that portion of money secured by a mortgage, deed of trust, or other encumbrance to finance improvement of, or to real property, but does not include:

(a) Funds to acquire real property;

(b) Funds to pay interest, insurance premiums, lease deposits, taxes, assessments, or prior encumbrances;

(c) Funds to pay loan, commitment, title, legal, closing, recording, or appraisal fees;

(d) Funds to pay other customary fees, which pursuant to agreement with the owner or borrower are to be paid by the lender from time to time;

(e) Funds to acquire personal property for which the potential lien claimant may not claim a lien pursuant to this chapter.

(7) "Labor" means exertion of the powers of body or mind performed at the site for compensation. "Labor" includes amounts due and owed to any employee benefit plan on account of such labor performed.

(8) "Mortgagee" means a person who has a valid mortgage of record or deed of trust of record securing a loan.

(9) "Owner-occupied" means a single-family residence occupied by the owner as his or her principal residence.

(10) "Payment bond" means a surety bond issued by a surety licensed to issue surety bonds in the state of Washington that confers upon potential claimants the rights of third party beneficiaries.

(11) "Potential lien claimant" means any person or entity entitled to assert lien rights under this chapter who has otherwise complied with the provisions of this chapter and is registered or licensed if required to be licensed or registered by the provisions of the laws of the state of Washington.

(12) "Prime contractor" includes all contractors, general contractors, and specialty contractors, as defined by chapter 18.27 or 19.28 RCW, or who are otherwise required to be registered or licensed by law, who contract directly with a property owner or their common law agent to assume primary responsibility for the creation of an improvement to real property, and includes property owners or their common law agents who are contractors, general contractors, or specialty contractors as defined in chapter 18.27 or 19.28 RCW, or who are otherwise required to be registered or licensed by law, who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year.

(13) "Professional services" means surveying, establishing or marking the boundaries of, preparing maps, plans, or specifications for, or inspecting, testing, or otherwise performing any other architectural or engineering services for the improvement of real property.

(14) "Real property lender" means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, partnership, trust, or individual that makes loans secured by real property located in the state of Washington.

(15) "Site" means the real property which is or is to be improved.

(16) "Subcontractor" means a general contractor or specialty contractor as defined by chapter 18.27 or 19.28 RCW,

or who is otherwise required to be registered or licensed by law, who contracts for the improvement of real property with someone other than the owner of the property or their common law agent. [1992 c 126 § 1; 1991 c 281 § 1.]

60.04.021 Lien authorized. Except as provided in RCW 60.04.031, any person furnishing labor, professional services, materials, or equipment for the improvement of real property shall have a lien upon the improvement for the contract price of labor, professional services, materials, or equipment furnished at the instance of the owner, or the agent or construction agent of the owner. [1991 c 281 § 2.]

60.04.031 Notices—Exceptions. (1) Except as otherwise provided in this section, every person furnishing professional services, materials, or equipment for the improvement of real property shall give the owner or reputed owner notice in writing of the right to claim a lien. If the prime contractor is in compliance with the requirements of RCW 19.27.095, 60.04.230, and 60.04.261, this notice shall also be given to the prime contractor as described in this subsection unless the potential lien claimant has contracted directly with the prime contractor. The notice may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after the date which is sixty days before:

- (a) Mailing the notice by certified or registered mail to the owner or reputed owner; or
- (b) Delivering or serving the notice personally upon the owner or reputed owner and obtaining evidence of delivery in the form of a receipt or other acknowledgment signed by the owner or reputed owner or an affidavit of service.

In the case of new construction of a single-family residence, the notice of a right to claim a lien may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after a date which is ten days before the notice is given as described in this subsection.

(2) Notices of a right to claim a lien shall not be required of:

- (a) Persons who contract directly with the owner or the owner's common law agent;
- (b) Laborers whose claim of lien is based solely on performing labor; or
- (c) Subcontractors who contract for the improvement of real property directly with the prime contractor, except as provided in subsection (3)(b) of this section.

(3) Persons who furnish professional services, materials, or equipment in connection with the repair, alteration, or remodel of an existing owner-occupied single-family residence or appurtenant garage:

- (a) Who contract directly with the owner-occupier or their common law agent shall not be required to send a written notice of the right to claim a lien and shall have a lien for the full amount due under their contract, as provided in RCW 60.04.021; or
- (b) Who do not contract directly with the owner-occupier or their common law agent shall give notice of the right to claim a lien to the owner-occupier. Liens of persons furnishing professional services, materials, or equipment who do not contract directly with the owner-occupier or their common

law agent may only be satisfied from amounts not yet paid to the prime contractor by the owner at the time the notice described in this section is received, regardless of whether amounts not yet paid to the prime contractor are due. For the purposes of this subsection "received" means actual receipt of notice by personal service, or registered or certified mail, or three days after mailing by registered or certified mail, excluding Saturdays, Sundays, or legal holidays.

(4) The notice of right to claim a lien described in subsection (1) of this section, shall include but not be limited to the following information and shall substantially be in the following form, using lower-case and upper-case ten-point type where appropriate.

NOTICE TO OWNER

IMPORTANT: READ BOTH SIDES OF THIS NOTICE CAREFULLY.

PROTECT YOURSELF FROM PAYING TWICE

To:Date:

Re: (description of property: Street address or general location.)

From:

AT THE REQUEST OF: (Name of person ordering the professional services, materials, or equipment)

THIS IS NOT A LIEN: This notice is sent to you to tell you who is providing professional services, materials, or equipment for the improvement of your property and to advise you of the rights of these persons and your responsibilities. Also take note that laborers on your project may claim a lien without sending you a notice.

OWNER/OCCUPIER OF EXISTING RESIDENTIAL PROPERTY

Under Washington law, those who furnish labor, professional services, materials, or equipment for the repair, remodel, or alteration of your owner-occupied principal residence and who are not paid, have a right to enforce their claim for payment against your property. This claim is known as a construction lien.

The law limits the amount that a lien claimant can claim against your property. Claims may only be made against that portion of the contract price you have not yet paid to your prime contractor as of the time this notice was given to you or three days after this notice was mailed to you. Review the back of this notice for more information and ways to avoid lien claims.

COMMERCIAL AND/OR NEW RESIDENTIAL PROPERTY

We have or will be providing professional services, materials, or equipment for the improvement of your commercial or new residential project. In the event you or your contractor fail to pay us, we may file a lien against your property. A lien may be claimed for all professional services, materials, or equipment furnished after a date that is sixty days before this notice was given to you or mailed to you, unless the improve-

ment to your property is the construction of a new single-family residence, then ten days before this notice was given to you or mailed to you.

Sender:
Address:
Telephone:

Brief description of professional services, materials, or equipment provided or to be provided:

IMPORTANT INFORMATION ON REVERSE SIDE

IMPORTANT INFORMATION FOR YOUR PROTECTION

This notice is sent to inform you that we have or will provide professional services, materials, or equipment for the improvement of your property. We expect to be paid by the person who ordered our services, but if we are not paid, we have the right to enforce our claim by filing a construction lien against your property.

LEARN more about the lien laws and the meaning of this notice by discussing them with your contractor, suppliers, Department of Labor and Industries, the firm sending you this notice, your lender, or your attorney.

COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods available to protect your property from construction liens. The following are two of the more commonly used methods.

DUAL PAYCHECKS (Joint Checks): When paying your contractor for services or materials, you may make checks payable jointly to the contractor and the firms furnishing you this notice.

LIEN RELEASES: You may require your contractor to provide lien releases signed by all the suppliers and subcontractors from whom you have received this notice. If they cannot obtain lien releases because you have not paid them, you may use the dual payee check method to protect yourself.

YOU SHOULD TAKE APPROPRIATE STEPS TO PROTECT YOUR PROPERTY FROM LIENS.

YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION LENDER ARE REQUIRED BY LAW TO GIVE YOU WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU HAVE NOT RECEIVED IT, ASK THEM FOR IT.

(5) Every potential lien claimant providing professional services where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been commenced, and the professional services provided are not visible from an inspection of the real property may record in the real property records of the county where the property is located a notice which shall contain the professional service provider's name, address, telephone number, legal description of the property, the owner or reputed owner's name, and the general nature of the professional services provided. If such notice is not recorded,

the lien claimed shall be subordinate to the interest of any subsequent mortgagee and invalid as to the interest of any subsequent purchaser if the mortgagee or purchaser acts in good faith and for a valuable consideration acquires an interest in the property prior to the commencement of an improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of the professional services being provided. The notice described in this subsection shall be substantially in the following form:

NOTICE OF FURNISHING PROFESSIONAL SERVICES

That on the (day) day of (month and year), (name of provider) began providing professional services upon or for the improvement of real property legally described as follows:

[Legal Description is mandatory]

The general nature of the professional services provided is

The owner or reputed owner of the real property is

(Signature)

(Name of Claimant)

(Street Address)

(City, State, Zip Code)

(Phone Number)

(6) A lien authorized by this chapter shall not be enforced unless the lien claimant has complied with the applicable provisions of this section. [1992 c 126 § 2; 1991 c 281 § 3.]

60.04.035 Acts of coercion—Application of chapter 19.86 RCW. The legislature finds that acts of coercion or attempted coercion, including threats to withhold future contracts, made by a contractor or developer to discourage a contractor, subcontractor, or material or equipment supplier from giving an owner the notice of right to claim a lien required by RCW 60.04.031, or from filing a claim of lien under this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. These acts of coercion are not reasonable in relation to the development and preservation of business. These acts of coercion shall constitute an unfair or deceptive act or practice in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW. [1992 c 126 § 3.]

60.04.041 Contractor registration. A contractor or subcontractor required to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or otherwise required to be registered or licensed by law, shall be deemed the construction agent of the owner for the purposes of establishing the lien created by this chapter only if so registered or licensed. Persons dealing with contractors or subcontractors may rely, for the purposes of this section, upon a certificate of registration issued pursuant to chapter 18.27 RCW or license issued pursuant to chapter 19.28 RCW, or other certificate or license issued pursuant to law, covering the period when the labor, professional services, material, or equipment shall be furnished, and the lien rights shall not be lost by suspension or revocation of registration or license without their knowledge. No lien rights described in this chapter shall be lost or denied by virtue of the absence, suspension, or revocation of such registration or license with respect to any contractor or subcontractor not in immediate contractual privity with the lien claimant. [1992 c 126 § 4; 1991 c 281 § 4.]

60.04.051 Property subject to lien. The lot, tract, or parcel of land which is improved is subject to a lien to the extent of the interest of the owner at whose instance, directly or through a common law or construction agent the labor, professional services, equipment, or materials were furnished, as the court deems appropriate for satisfaction of the lien. If, for any reason, the title or interest in the land upon which the improvement is situated cannot be subjected to the lien, the court in order to satisfy the lien may order the sale and removal of the improvement from the land which is subject to the lien. [1992 c 126 § 5; 1991 c 281 § 5.]

60.04.061 Priority of lien. The claim of lien created by this chapter upon any lot or parcel of land shall be prior to any lien, mortgage, deed of trust, or other encumbrance which attached to the land after or was unrecorded at the time of commencement of labor or professional services or first delivery of materials or equipment by the lien claimant. [1991 c 281 § 6.]

60.04.071 Release of lien rights. Upon payment and acceptance of the amount due to the lien claimant and upon demand of the owner or the person making payment, the lien claimant shall immediately prepare and execute a release of all lien rights for which payment has been made, and deliver the release to the person making payment. In any suit to compel deliverance of the release thereafter in which the court determines the delay was unjustified, the court shall, in addition to ordering the deliverance of the release, award the costs of the action including reasonable attorneys' fees and any damages. [1991 c 281 § 7.]

60.04.081 Frivolous claim—Procedure. (1) Any owner of real property subject to a recorded claim of lien under this chapter, or contractor, subcontractor, lender, or lien claimant who believes the claim of lien to be frivolous and made without reasonable cause, or clearly excessive may apply by motion to the superior court for the county where the property, or some part thereof is located, for an order directing the lien claimant to appear before the court at a time no earlier than six nor later than fifteen days following the

date of service of the application and order on the lien claimant, and show cause, if any he or she has, why the relief requested should not be granted. The motion shall state the grounds upon which relief is asked, and shall be supported by the affidavit of the applicant or his or her attorney setting forth a concise statement of the facts upon which the motion is based.

(2) The order shall clearly state that if the lien claimant fails to appear at the time and place noted the lien shall be released, with prejudice, and that the lien claimant shall be ordered to pay the costs requested by the applicant including reasonable attorneys' fees.

(3) If no action to foreclose the lien claim has been filed, the clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee pursuant to RCW 36.18.016. If an action has been filed to foreclose the lien claim, the application shall be made a part of that action.

(4) If, following a hearing on the matter, the court determines that the lien is frivolous and made without reasonable cause, or clearly excessive, the court shall issue an order releasing the lien if frivolous and made without reasonable cause, or reducing the lien if clearly excessive, and awarding costs and reasonable attorneys' fees to the applicant to be paid by the lien claimant. If the court determines that the lien is not frivolous and was made with reasonable cause, and is not clearly excessive, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the lien claimant to be paid by the applicant.

(5) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise. [2006 c 192 § 3; 1992 c 126 § 6; 1991 c 281 § 8.]

60.04.091 Recording—Time—Contents of lien. Every person claiming a lien under RCW 60.04.021 shall file for recording, in the county where the subject property is located, a notice of claim of lien not later than ninety days after the person has ceased to furnish labor, professional services, materials, or equipment or the last date on which employee benefit contributions were due. The notice of claim of lien:

- (1) Shall state in substance and effect:
 - (a) The name, phone number, and address of the claimant;
 - (b) The first and last date on which the labor, professional services, materials, or equipment was furnished or employee benefit contributions were due;
 - (c) The name of the person indebted to the claimant;
 - (d) The street address, legal description, or other description reasonably calculated to identify, for a person familiar with the area, the location of the real property to be charged with the lien;
 - (e) The name of the owner or reputed owner of the property, if known, and, if not known, that fact shall be stated; and
 - (f) The principal amount for which the lien is claimed.
- (2) Shall be signed by the claimant or some person authorized to act on his or her behalf who shall affirmatively state they have read the notice of claim of lien and believe the notice of claim of lien to be true and correct under penalty of perjury, and shall be acknowledged pursuant to chapter 64.08 RCW. If the lien has been assigned, the name of the assignee

shall be stated. Where an action to foreclose the lien has been commenced such notice of claim of lien may be amended as pleadings may be by order of the court insofar as the interests of third parties are not adversely affected by such amendment. A claim of lien substantially in the following form shall be sufficient:

CLAIM OF LIEN

....., claimant, vs, name of person indebted to claimant:

Notice is hereby given that the person named below claims a lien pursuant to *chapter 64.04 RCW. In support of this lien the following information is submitted:

- 1. NAME OF LIEN CLAIMANT:
- TELEPHONE NUMBER:
- ADDRESS:
- 2. DATE ON WHICH THE CLAIMANT BEGAN TO PERFORM LABOR, PROVIDE PROFESSIONAL SERVICES, SUPPLY MATERIAL OR EQUIPMENT OR THE DATE ON WHICH EMPLOYEE BENEFIT CONTRIBUTIONS BECAME DUE:
- 3. NAME OF PERSON INDEBTED TO THE CLAIMANT:
- 4. DESCRIPTION OF THE PROPERTY AGAINST WHICH A LIEN IS CLAIMED (Street address, legal description or other information that will reasonably describe the property):
- 5. NAME OF THE OWNER OR REPUTED OWNER (If not known state "unknown"):
- 6. THE LAST DATE ON WHICH LABOR WAS PERFORMED; PROFESSIONAL SERVICES WERE FURNISHED; CONTRIBUTIONS TO AN EMPLOYEE BENEFIT PLAN WERE DUE; OR MATERIAL, OR EQUIPMENT WAS FURNISHED:
- 7. PRINCIPAL AMOUNT FOR WHICH THE LIEN IS CLAIMED IS:
- 8. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE:

....., Claimant
.....
.....
(Phone number, address, city, and state of claimant)

STATE OF WASHINGTON, COUNTY OF, ss., being sworn, says: I am the claimant (or attorney of the trustees of an employee benefit plan) above named; I have read or heard the foregoing claim, read and know the contents thereof, and believe the same to be true and correct and that the claim of lien is not frivolous and is made with reasonable cause, and is not clearly excessive under penalty of perjury.

.....
Subscribed and sworn to before me this day of

The period provided for recording the claim of lien is a period of limitation and no action to foreclose a lien shall be maintained unless the claim of lien is filed for recording within the ninety-day period stated. The lien claimant shall give a copy of the claim of lien to the owner or reputed owner by mailing it by certified or registered mail or by personal service within fourteen days of the time the claim of lien is filed for recording. Failure to do so results in a forfeiture of any right the claimant may have to attorneys' fees and costs against the owner under RCW 60.04.181. [1992 c 126 § 7; 1991 c 281 § 9.]

*Reviser's note: The reference to chapter 64.04 RCW appears to be erroneous. Reference to chapter 60.04 RCW was apparently intended.

60.04.101 Separate residential units—Time for filing. When furnishing labor, professional services, materials, or equipment for the construction of two or more separate residential units, the time for filing claims of lien against each separate residential unit shall commence to run upon the cessation of the furnishing of labor, professional services, materials, or equipment on each residential unit, as provided in this chapter. For the purposes of this section a separate residential unit is defined as consisting of one residential structure together with any garages or other outbuildings appurtenant thereto. [1991 c 281 § 10.]

60.04.111 Recording—Fees. The county auditor shall record the notice of claim of lien in the same manner as deeds and other instruments of title are recorded under chapter 65.08 RCW. Notices of claim of lien for registered land need not be recorded in the Torrens register. The county auditor shall charge no higher fee for recording notices of claim of lien than other documents. [1991 c 281 § 11.]

60.04.121 Lien—Assignment. Any lien or right of lien created by this chapter and the right of action to recover therefor, shall be assignable so as to vest in the assignee all rights and remedies of the assignor, subject to all defenses thereto that might be made. [1991 c 281 § 12.]

60.04.131 Claims—Designation of amount due. In every case in which the notice of claim of lien is recorded against two or more separate pieces of property owned by the same person or owned by two or more persons jointly or otherwise, who contracted for the labor, professional services, material, or equipment for which the notice of claim of lien is

recorded, the person recording the notice of claim of lien shall designate in the notice of claim of lien the amount due on each piece of property, otherwise the lien is subordinated to other liens that may be established under this chapter. The lien of such claim does not extend beyond the amount designated as against other creditors having liens upon any of such pieces of property. [1991 c 281 § 13.]

60.04.141 Lien—Duration—Procedural limitations.

No lien created by this chapter binds the property subject to the lien for a longer period than eight calendar months after the claim of lien has been recorded unless an action is filed by the lien claimant within that time in the superior court in the county where the subject property is located to enforce the lien, and service is made upon the owner of the subject property within ninety days of the date of filing the action; or, if credit is given and the terms thereof are stated in the claim of lien, then eight calendar months after the expiration of such credit; and in case the action is not prosecuted to judgment within two years after the commencement thereof, the court, in its discretion, may dismiss the action for want of prosecution, and the dismissal of the action or a judgment rendered thereon that no lien exists shall constitute a cancellation of the lien. This is a period of limitation, which shall be tolled by the filing of any petition seeking protection under Title Eleven, United States Code by an owner of any property subject to the lien established by this chapter. [1992 c 126 § 8; 1991 c 281 § 14.]

60.04.151 Rights of owner—Recovery options.

The lien claimant shall be entitled to recover upon the claim recorded the contract price after deducting all claims of other lien claimants to whom the claimant is liable, for furnishing labor, professional services, materials, or equipment; and in all cases where a claim of lien shall be recorded under this chapter for labor, professional services, materials, or equipment supplied to any lien claimant, he or she shall defend any action brought thereupon at his or her own expense. During the pendency of the action, the owner may withhold from the prime contractor the amount of money for which a claim is recorded by any subcontractor, supplier, or laborer. In case of judgment against the owner or the owner's property, upon the lien, the owner shall be entitled to deduct from sums due to the prime contractor the principal amount of the judgment from any amount due or to become due from the owner to the prime contractor plus such costs, including interest and attorneys' fees, as the court deems just and equitable, and the owner shall be entitled to recover back from the prime contractor the amount for which a lien or liens are established in excess of any sum that may remain due from the owner to the prime contractor. [1992 c 126 § 9; 1991 c 281 § 15.]

60.04.161 Bond in lieu of claim. Any owner of real property subject to a recorded claim of lien under this chapter, or contractor, subcontractor, lender, or lien claimant who disputes the correctness or validity of the claim of lien may record, either before or after the commencement of an action to enforce the lien, in the office of the county recorder or auditor in the county where the claim of lien was recorded, a bond issued by a surety company authorized to issue surety bonds in the state. The surety shall be listed in the latest fed-

eral department of the treasury list of surety companies acceptable on federal bonds, published in the Federal Register, as authorized to issue bonds on United States government projects with an underwriting limitation, including applicable reinsurance, equal to or greater than the amount of the bond to be recorded. The bond shall contain a description of the claim of lien and real property involved, and be in an amount equal to the greater of five thousand dollars or two times the amount of the lien claimed if it is ten thousand dollars or less, and in an amount equal to or greater than one and one-half times the amount of the lien if it is in excess of ten thousand dollars. If the claim of lien affects more than one parcel of real property and is segregated to each parcel, the bond may be segregated the same as in the claim of lien. A separate bond shall be required for each claim of lien made by separate claimants. However, a single bond may be used to guarantee payment of amounts claimed by more than one claim of lien by a single claimant so long as the amount of the bond meets the requirements of this section as applied to the aggregate sum of all claims by such claimant. The condition of the bond shall be to guarantee payment of any judgment upon the lien in favor of the lien claimant entered in any action to recover the amount claimed in a claim of lien, or on the claim asserted in the claim of lien. The effect of recording a bond shall be to release the real property described in the notice of claim of lien from the lien and any action brought to recover the amount claimed. Unless otherwise prohibited by law, if no action is commenced to recover on a lien within the time specified in RCW 60.04.141, the surety shall be discharged from liability under the bond. If an action is timely commenced, then on payment of any judgment entered in the action or on payment of the full amount of the bond to the holder of the judgment, whichever is less, the surety shall be discharged from liability under the bond.

Nothing in this section shall in any way prohibit or limit the use of other methods, devised by the affected parties to secure the obligation underlying a claim of lien and to obtain a release of real property from a claim of lien. [1992 c 126 § 10; 1991 c 281 § 16.]

60.04.171 Foreclosure—Parties. The lien provided by this chapter, for which claims of lien have been recorded, may be foreclosed and enforced by a civil action in the court having jurisdiction in the manner prescribed for the judicial foreclosure of a mortgage. The court shall have the power to order the sale of the property. In any action brought to foreclose a lien, the owner shall be joined as a party. The interest in the real property of any person who, prior to the commencement of the action, has a recorded interest in the property, or any part thereof, shall not be foreclosed or affected unless they are joined as a party.

A person shall not begin an action to foreclose a lien upon any property while a prior action begun to foreclose another lien on the same property is pending, but if not made a party plaintiff or defendant to the prior action, he or she may apply to the court to be joined as a party thereto, and his or her lien may be foreclosed in the same action. The filing of such application shall toll the running of the period of limitation established by RCW 60.04.141 until disposition of the application or other time set by the court. The court shall grant the application for joinder unless to do so would create

an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions as the court deems just. If a lien foreclosure action is filed during the pendency of another such action, the court may, on its own motion or the motion of any party, consolidate actions upon such terms and conditions as the court deems just, unless to do so would create an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions. If consolidation of actions is not permissible under this section, the lien foreclosure action filed during the pendency of another such action shall not be dismissed if the filing was the result of mistake, inadvertence, surprise, excusable neglect, or irregularity. An action to foreclose a lien shall not be dismissed at the instance of a plaintiff therein to the prejudice of another party to the suit who claims a lien. [1992 c 126 § 11; 1991 c 281 § 17.]

60.04.181 Rank of lien—Application of proceeds—Attorneys' fees. (1) In every case in which different construction liens are claimed against the same property, the court shall declare the rank of such lien or class of liens, which liens shall be in the following order:

- (a) Liens for the performance of labor;
- (b) Liens for contributions owed to employee benefit plans;
- (c) Liens for furnishing material, supplies, or equipment;
- (d) Liens for subcontractors, including but not limited to their labor and materials; and
- (e) Liens for prime contractors, or for professional services.

(2) The proceeds of the sale of property must be applied to each lien or class of liens in order of its rank and, in an action brought to foreclose a lien, pro rata among each claimant in each separate priority class. A personal judgment may be rendered against any party personally liable for any debt for which the lien is claimed. If the lien is established, the judgment shall provide for the enforcement thereof upon the property liable as in the case of foreclosure of judgment liens. The amount realized by such enforcement of the lien shall be credited upon the proper personal judgment. The deficiency, if any, remaining unsatisfied, shall stand as a personal judgment, and may be collected by execution against any party liable therefor.

(3) The court may allow the prevailing party in the action, whether plaintiff or defendant, as part of the costs of the action, the moneys paid for recording the claim of lien, costs of title report, bond costs, and attorneys' fees and necessary expenses incurred by the attorney in the superior court, court of appeals, supreme court, or arbitration, as the court or arbitrator deems reasonable. Such costs shall have the priority of the class of lien to which they are related, as established by subsection (1) of this section.

(4) Real property against which a lien under this chapter is enforced may be ordered sold by the court and the proceeds deposited into the registry of the clerk of the court, pending further determination respecting distribution of the proceeds of the sale. [1992 c 126 § 12; 1991 c 281 § 18.]

60.04.190 Destruction or concealment of property—Removal from premises—Penalty. See RCW 61.12.030, 9.45.060.

60.04.191 Effect of note—Personal action preserved.

The taking of a promissory note or other evidence of indebtedness for any labor, professional services, material, or equipment furnished for which a lien is created by this chapter does not discharge the lien therefor, unless expressly received as payment and so specified therein.

Nothing in this chapter shall be construed to impair or affect the right of any person to whom any debt may be due for the furnishing of labor, professional services, material, or equipment to maintain a personal action to recover the debt against any person liable therefor. [1991 c 281 § 19.]

60.04.201 Material exempt from process—Exception. Whenever material is furnished for use in the improvement of property subject to a lien created by this chapter, the material is not subject to attachment, execution, or other legal process to enforce any debt due by the purchaser of the material, except a debt due for the purchase money thereof, so long as in good faith, the material is about to be applied in the improvement of such property. [1991 c 281 § 20.]

60.04.211 Lien—Effect on community interest. The claim of lien, when filed as required by this chapter, shall be notice to the spouse or the domestic partner of the person who appears of record to be the owner of the property sought to be charged with the lien, and shall subject all the community interest of both spouses or both domestic partners to the lien. [2008 c 6 § 641; 1991 c 281 § 21.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

60.04.221 Notice to lender—Withholding of funds.

Any lender providing interim or construction financing where there is not a payment bond of at least fifty percent of the amount of construction financing shall observe the following procedures and the rights and liabilities of the lender and potential lien claimant shall be affected as follows:

(1) Any potential lien claimant who has not received a payment within five days after the date required by their contract, invoice, employee benefit plan agreement, or purchase order may within thirty-five days of the date required for payment of the contract, invoice, employee benefit plan agreement, or purchase order, give a notice as provided in subsections (2) and (3) of this section of the sums due and to become due, for which a potential lien claimant may claim a lien under this chapter.

(2) The notice shall be signed by the potential lien claimant or some person authorized to act on his or her behalf.

(3) The notice shall be given in writing to the lender at the office administering the interim or construction financing, with a copy given to the owner and appropriate prime contractor. The notice shall be given by:

(a) Mailing the notice by certified or registered mail to the lender, owner, and appropriate prime contractor; or

(b) Delivering or serving the notice personally and obtaining evidence of delivery in the form of a receipt or other acknowledgment signed by the lender, owner, and appropriate prime contractor, or an affidavit of service.

(4) The notice shall state in substance and effect as follows:

(a) The person, firm, trustee, or corporation filing the notice is entitled to receive contributions to any type of employee benefit plan or has furnished labor, professional services, materials, or equipment for which a lien is given by this chapter.

(b) The name of the prime contractor, common law agent, or construction agent ordering the same.

(c) A common or street address of the real property being improved or the legal description of the real property.

(d) The name, business address, and telephone number of the lien claimant.

The notice to the lender may contain additional information but shall be in substantially the following form:

NOTICE TO REAL PROPERTY LENDER
(Authorized by RCW)

TO: (Name of Lender)

(Administrative Office-Street Address)

(City) (State) (Zip)

AND TO: (Owner)

AND TO: (Prime Contractor-If Different Than Owner)

(Name of Laborer, Professional, Materials, or Equipment Supplier)

whose business address is, did at the property located at

(Check appropriate box) () perform labor () furnish professional services () provide materials () supply equipment as follows:

.....

which was ordered by (Name of Person)

whose address was stated to be

The amount owing to the undersigned according to contract or purchase order for labor, supplies, or equipment (as above mentioned) is the sum of Dollars (\$). Said sums became due and owing as of

(State Date)

.....,

You are hereby required to withhold from any future draws on existing construction financing which has been made on the subject property (to the extent there remain undisbursed funds) the sum of Dollars (\$).

IMPORTANT

Failure to comply with the requirements of this notice may subject the lender to a whole or partial compromise of any priority lien interest it may have pursuant to RCW 60.04.226.

DATE:

By:

Its:

(5) After the receipt of the notice, the lender shall withhold from the next and subsequent draws the amount claimed to be due as stated in the notice. Alternatively, the lender may obtain from the prime contractor or borrower a payment bond for the benefit of the potential lien claimant in an amount sufficient to cover the amount stated in the potential lien claimant's notice. The lender shall be obligated to withhold amounts only to the extent that sufficient interim or construction financing funds remain undisbursed as of the date the lender receives the notice.

(6) Sums so withheld shall not be disbursed by the lender, except by the written agreement of the potential lien claimant, owner, and prime contractor in such form as may be prescribed by the lender, or the order of a court of competent jurisdiction.

(7) In the event a lender fails to abide by the provisions of *subsections (4) and (5) of this section, then the mortgage, deed of trust, or other encumbrance securing the lender shall be subordinated to the lien of the potential lien claimant to the extent of the interim or construction financing wrongfully disbursed, but in no event more than the amount stated in the notice plus costs as fixed by the court, including reasonable attorneys' fees.

(8) Any potential lien claimant shall be liable for any loss, cost, or expense, including reasonable attorneys' fees and statutory costs, to a party injured thereby arising out of any unjust, excessive, or premature notice filed under purported authority of this section. "Notice" as used in this subsection does not include notice given by a potential lien claimant of the right to claim liens under this chapter where no actual claim is made.

(9)(a) Any owner of real property subject to a notice to real property lender under this section, or the contractor, subcontractor, lender, or lien claimant who believes the claim that underlies the notice is frivolous and made without reasonable cause, or is clearly excessive may apply by motion to the superior court for the county where the property, or some part thereof is located, for an order commanding the potential lien claimant who issued the notice to the real property lender to appear before the court at a time no earlier than six nor later than fifteen days from the date of service of the application and order on the potential lien claimant, and show cause, if any he or she has, why the notice to real property lender should not be declared void. The motion shall state the grounds upon which relief is asked and shall be supported by

the affidavit of the applicant or his or her attorney setting forth a concise statement of the facts upon which the motion is based.

(b) The order shall clearly state that if the potential lien claimant fails to appear at the time and place noted, the notice to lender shall be declared void and that the potential lien claimant issuing the notice shall be ordered to pay the costs requested by the applicant including reasonable attorneys' fees.

(c) The clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee of thirty-five dollars.

(d) If, following a hearing on the matter, the court determines that the claim upon which the notice to real property lender is based is frivolous and made without reasonable cause, or clearly excessive, the court shall issue an order declaring the notice to real property lender void if frivolous and made without reasonable cause, or reducing the amount stated in the notice if clearly excessive, and awarding costs and reasonable attorneys' fees to the applicant to be paid by the person who issued the notice. If the court determines that the claim underlying the notice to real property lender is not frivolous and was made with reasonable cause, and is not clearly excessive, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the issuer of the notice to be paid by the applicant.

(e) Proceedings under this subsection shall not affect other rights and remedies available to the parties under this chapter or otherwise. [1992 c 126 § 13; 1991 c 281 § 22.]

***Reviser's note:** The reference to subsections (4) and (5) of this section appears to be erroneous. Engrossed Senate Bill No. 6441 changed the subsection numbers. Subsections (4) and (5) are now subsections (5) and (6).

60.04.226 Financial encumbrances—Priorities.

Except as otherwise provided in RCW 60.04.061 or 60.04.221, any mortgage or deed of trust shall be prior to all liens, mortgages, deeds of trust, and other encumbrances which have not been recorded prior to the recording of the mortgage or deed of trust to the extent of all sums secured by the mortgage or deed of trust regardless of when the same are disbursed or whether the disbursements are obligatory. [1991 c 281 § 23.]

60.04.230 Construction projects—Notice to be posted by prime contractor—Penalty. (1) For any construction project costing more than five thousand dollars the prime contractor shall post in plain view for the duration of the construction project a legible notice at the construction job site containing the following:

(a) The legal description, or the tax parcel number assigned pursuant to RCW 84.40.160, and the street address if available, and may include any other identification of the construction site by the prime contractor;

(b) The property owner's name, address, and phone number;

(c) The prime contractor's business name, address, phone number, current state contractor registration number and identification; and

(d) Either:

(i) The name, address, and phone number of the office of the lender administering the interim construction financing, if any; or

(ii) The name and address of the firm that has issued a payment bond, if any, on behalf of the prime contractor for the protection of the owner if the bond is for an amount not less than fifty percent of the total amount of the construction project.

(2) For any construction project which requires a building permit under local ordinance, compliance with the posting requirements of RCW 19.27.095 shall constitute compliance with this section. Otherwise, the information shall be posted as set forth in this section.

(3) Failure to comply with this section shall subject the prime contractor to a civil penalty of not more than five thousand dollars, payable to the county where the project is located. [1991 c 281 § 28; 1984 c 202 § 3.]

60.04.250 Informational materials on construction lien laws—Master documents.

The department of labor and industries shall prepare master documents that provide informational material about construction lien laws and available safeguards against real property lien claims. The material shall include methods of protection against lien claims, including obtaining lien release documents, performance bonds, joint payee checks, the opportunity to require contractor disclosure of all potential lien claimants as a condition of payment, and lender supervision under *RCW 60.04.200 and 60.04.210. The material shall also include sources of further information, including the department of labor and industries and the office of the attorney general. [1990 c 81 § 1; 1988 c 270 § 1.]

***Reviser's note:** RCW 60.04.200 and 60.04.210 were repealed by 1991 c 281 § 31, effective April 1, 1992.

Additional notes found at www.leg.wa.gov

60.04.255 Informational materials on construction lien laws—Copies—Liability.

(1) Every real property lender shall provide a copy of the informational material described in RCW 60.04.250 to all persons obtaining loans, the proceeds of which are to be used for residential construction or residential repair or remodeling.

(2) Every contractor shall provide a copy of the informational material described in RCW 60.04.250 to customers required to receive contractor disclosure notice under RCW 18.27.114.

(3) No cause of action may lie against the state, a real property lender, or a contractor arising from the provisions of RCW 60.04.250 and this section.

(4) For the purpose of this section, "real property lender" means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, partnership, or individual that makes loans secured by real property in this state. [1988 c 270 § 2.]

Additional notes found at www.leg.wa.gov

60.04.261 Availability of information. The prime contractor shall immediately supply the information listed in RCW 19.27.095(2) to any person who has contracted to supply materials, equipment, or professional services or who is a subcontractor on the improvement, as soon as the identity and

mailing address of such subcontractor, supplier, or professional is made known to the prime contractor either directly or through another subcontractor, supplier, or professional. [1991 c 281 § 24.]

60.04.900 Liberal construction—1991 c 281. RCW 19.27.095, 60.04.230, and 60.04.011 through 60.04.226 and 60.04.261 are to be liberally construed to provide security for all parties intended to be protected by their provisions. [1991 c 281 § 25.]

60.04.902 Effective date, application—1991 c 281. This act shall take effect June 1, 1992. Lien claims based on an improvement commenced by a potential lien claimant on or after June 1, 1992, shall be governed by the provisions of this act. [1992 c 126 § 14; 1991 c 281 § 32.]

60.04.903 Effective date—1992 c 126. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1992, except section 14 of this act which shall take effect immediately [March 31, 1992]. [1992 c 126 § 15.]

60.04.904 Application of chapter 281, Laws of 1991, to actions pending as of June 1, 1992—1993 c 357. All rights acquired and liabilities incurred under acts or parts of act repealed by chapter 281, Laws of 1991, are hereby preserved, and all actions pending as of June 1, 1992, shall proceed under the law as it existed at the time chapter 281, Laws of 1991, took effect. [1993 c 357 § 1.]

Additional notes found at www.leg.wa.gov

**Chapter 60.08 RCW
CHATTEL LIENS**

Sections

- 60.08.010 Lien authorized.
- 60.08.020 Notice of lien—Contents—Form.
- 60.08.030 Priority of lien.
- 60.08.040 Enforcement of lien—Limitation of action.
- 60.08.050 Rank of lien—Personal judgment—Deficiency—Costs.
- 60.08.060 Filing notice of liens.
- 60.08.080 Frivolous or clearly excessive claims of lien—Motion to court—Procedures.
- 60.08.085 Transferring title of a vehicle—Requirements—Application to chapter 60.10 RCW.

60.08.010 Lien authorized. Every person, firm or corporation who shall have performed labor or furnished material in the construction or repair of any chattel at the request of its owner, shall have a lien upon such chattel for such labor performed or material furnished, notwithstanding the fact that such chattel be surrendered to the owner thereof: PROVIDED, HOWEVER, That no such lien shall continue, after the delivery of such chattel to its owner, as against the rights of third persons who, prior to the filing of the lien notice as hereinafter provided for, may have acquired the title to such chattel in good faith, for value and without actual notice of the lien. [1917 c 68 § 1; 1909 c 166 § 1; 1905 c 72 § 1; RRS § 1154.]

(2018 Ed.)

60.08.020 Notice of lien—Contents—Form. In order to make such lien effectual, the lien claimant shall, within ninety days from the date of delivery of such chattel to the owner, file in the office of the auditor of the county in which such chattel is kept, a lien notice, which notice shall state the name of the claimant, the name of the owner, a description of the chattel upon which the claimant has performed labor or furnished material, the amount for which a lien is claimed, and the date upon which such expenditure of labor or material was completed, which notice shall be signed by the claimant or someone on his or her behalf, and may be in substantially the following form:

CHATTEL LIEN NOTICE.

.....	Claimant,	}
against		
.....	Owner.	

Notice is hereby given that has and claims a lien upon (here insert description of chattel), owned by for the sum of dollars, for and on account of labor, skill and material expended upon said which was completed upon the day of, (year) .
...

.....
Claimant.

[2016 c 202 § 35; 2012 c 117 § 131; 1983 c 33 § 1; 1917 c 68 § 2; 1905 c 72 § 2; RRS § 1155.]

60.08.030 Priority of lien. The liens created by this chapter are preferred to any lien, mortgage or other encumbrance which may attach subsequently to the time of the commencement of the performance of the labor, or the furnishing of the materials for which the right of lien is given by this chapter, and are also preferred to any lien, mortgage or other encumbrance which may have attached previously to that time, and which was not filed or recorded so as to create constructive notice of the same prior to that time, and of which the lien claimant has no notice. [1917 c 68 § 3; 1905 c 72 § 3; RRS § 1156.]

60.08.040 Enforcement of lien—Limitation of action. The lien herein provided for may be enforced against all persons having a junior or subsequent interest in any such chattel, by judicial procedure or by summary procedure as set forth in chapter 60.10 RCW within nine months after the filing of such lien notice, and if no such action shall be commenced within such time such lien shall cease. [1995 c 62 § 4; 1969 c 82 § 11; 1917 c 68 § 4; 1905 c 72 § 4; RRS § 1157.]

Secured transactions: Article 62A.9A RCW.

60.08.050 Rank of lien—Personal judgment—Deficiency—Costs. In every case originating in or removed to a court of competent jurisdiction, in which different liens are claimed against the same property, the court, in the judgment, must declare the rank of such lien or class of liens, which shall be in the following order:

- (1) All persons performing labor;
- (2) All persons furnishing material;

And the proceeds of the sale of the property must be applied to each lien or class of liens in the order of its rank; and personal judgment may be rendered in an action brought to foreclose a lien, against any party personally liable for any debt for which the lien is claimed, and if the lien be established, the judgment shall provide for the enforcement thereof upon the property liable as in case of foreclosure of mortgages; and the amount realized by such enforcement of the lien shall be credited upon the proper personal judgment, and the deficiency, if any, remaining unsatisfied, shall stand as a personal judgment, and may be collected by execution against the party liable therefor. The court may allow, as part of the costs of the action, the moneys paid for filing or recording the claim, and a reasonable attorney's fee in the action. [1917 c 68 § 5; RRS § 1157a.]

60.08.060 Filing notice of liens. Upon presentation of such lien notice to the auditor of any county, he or she shall file the same, and endorse thereon the time of the reception, the number thereof, and shall enter the same in a suitable book or file (but need not record the same). Such book or file shall have herewith an alphabetic index, in which the county auditor shall index such notice by noting the name of the owner, name of lien claimant, description of property, date of lien (which shall be the date upon which such expenditure of labor, skill or material was completed), date of filing and when released, the date of release. [2012 c 117 § 132; 1983 c 33 § 2; 1905 c 72 § 5; RRS § 1158.]

60.08.080 Frivolous or clearly excessive claims of lien—Motion to court—Procedures. (1) Any owner of property subject to a recorded claim of lien under this chapter, or contractor, subcontractor, lender, or lien claimant who believes the claim of lien to be frivolous and made without reasonable cause, or clearly excessive may apply by motion to the superior court for the county where the property is located, for an order directing the lien claimant to appear before the court at a time no earlier than six nor later than fifteen days following the date of service of the application and order on the lien claimant, and show cause, if any he or she has, why the relief requested should not be granted. The motion shall state the grounds upon which relief is asked, and shall be supported by the affidavit of the applicant or his or her attorney setting forth a concise statement of the facts upon which the motion is based.

(2) The order shall clearly state that if the lien claimant fails to appear at the time and place noted the lien shall be released, with prejudice, and that the lien claimant shall be ordered to pay the costs requested by the applicant including reasonable attorneys' fees.

(3) If no action to foreclose the lien claim has been filed, the clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee of thirty-five dollars. If an action has been filed to foreclose the lien claim, the application shall be made a part of that action.

(4) The applicant must give notice of the hearing to the lien claimant by providing copies of the motion, order, and any other documents filed with the court, to the lien claimant by first-class mail, by certified or registered mail, or by personal service.

(5) If, following a hearing on the matter, the court determines that the lien is frivolous and made without reasonable cause, or clearly excessive, the court shall issue an order releasing the lien if frivolous and made without reasonable cause, or reducing the lien if clearly excessive, and awarding costs and reasonable attorneys' fees to the applicant to be paid by the lien claimant. If the court determines that the lien is not frivolous and was made with reasonable cause, and is not clearly excessive, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the lien claimant to be paid by the applicant.

(6) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise. [2006 c 283 § 1.]

Additional notes found at www.leg.wa.gov

60.08.085 Transferring title of a vehicle—Requirements—Application to chapter 60.10 RCW. The department of licensing, and the department's agents and subagents, shall not transfer title of a vehicle through the chattel lien process under this chapter and chapter 60.10 RCW unless an affidavit of sale and the following documentation is submitted: (1) A certified copy of the lien filing that is filed with the county auditor; (2) a copy of the letter, sent by the lien claimant via first-class mail, and certified or registered mail, including the return receipt, to the address of the current registered owner notifying the current registered owner of the lien filing; and (3) an affidavit of service by mail. [2006 c 283 § 2.]

Additional notes found at www.leg.wa.gov

Chapter 60.10 RCW PERSONAL PROPERTY LIENS—SUMMARY FORECLOSURE

Sections

60.10.010	Definitions.
60.10.020	Methods of foreclosure.
60.10.023	Judicial foreclosure of personal property liens.
60.10.027	Judicial foreclosure of a security interest.
60.10.030	Notice and sale—Priorities—Sale procedure—Surplus—Deficiency—Obligation of lienholder.
60.10.040	Rights and interest of purchaser for value—Certificates of title.
60.10.050	Redemption.
60.10.060	Noncompliance with chapter—Rights of lien debtor.
60.10.070	"Commercially reasonable."

60.10.010 Definitions. As used in this chapter:

(1) The term "lien debtor" means the person who is obligated, owes payment or other performance. Where the lien debtor and the owner of the collateral are not the same person, the term "lien debtor" means the owner of the collateral.

(2) "Collateral" means the property subject to a statutory lien.

(3) "Lienholder" means a person who, by statute, has acquired a lien on the property of the lien debtor, or such person's successor in interest.

(4) "Secured party" has the same meaning as used in Article 9A of the Uniform Commercial Code (Title 62A RCW). [2001 c 32 § 3; 1969 c 82 § 2.]

Judicial foreclosure of personal property liens: RCW 60.10.023.

Additional notes found at www.leg.wa.gov

60.10.020 Methods of foreclosure. Any lien upon personal property, excluded by *RCW 62A.9-104 from the provisions of the Uniform Commercial Code (Title 62A RCW), may be foreclosed by: (1) An action in the district court having jurisdiction in the district in which the property is situated in accordance with RCW 60.10.023, if the value of the claim does not exceed the jurisdictional limit of the district court provided in RCW 3.66.020; or (2) an action in the superior court having jurisdiction in the county in which the property is situated in accordance with RCW 60.10.023, if the value of the claim exceeds the jurisdictional limit of the district court provided in RCW 3.66.020; or (3) summary procedure as provided in this chapter. [1995 c 62 § 5; 1991 c 33 § 3; 1969 c 82 § 3.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

Additional notes found at www.leg.wa.gov

60.10.023 Judicial foreclosure of personal property liens. The provisions of chapter 61.12 RCW, so far as they are applicable, govern in actions for the judicial foreclosure of liens on personal property excluded by *RCW 62A.9-104 from the provisions of the Uniform Commercial Code, Title 62A RCW. The lienholder may proceed on the lien; and if there is a separate obligation secured by the lien, the lienholder may bring suit on the obligation. If the lienor proceeds on the obligation, the court shall, in addition to entering a decree foreclosing the lien, render judgment for the amount due on the obligation. The decree shall direct the sale of the lien property, and if there is a judgment on an obligation and the proceeds of the sale are insufficient to satisfy the judgment, the sheriff is authorized to proceed under the same execution and levy on and sell other property of the lien debtor, not exempt from execution, for the sum remaining unsatisfied.

Redemption rights and the rights and interest of a purchaser for value under this section are governed by RCW 60.10.040 and 60.10.050. [1995 c 62 § 1; 1969 c 82 § 1. Formerly RCW 61.12.162.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

60.10.027 Judicial foreclosure of a security interest. The provisions of chapter 61.12 RCW, so far as they are applicable, shall also be available to a secured party seeking to enforce a security interest by judicial proceedings as authorized by *RCW 62A.9-501(1). In such a proceeding, the court shall enter a judgment foreclosing the security interest and shall render judgment for the amount due on the secured obligation. The decree shall direct the sale of property that is subject to the foreclosed security interest and is within the court's jurisdiction, and if the proceeds of sale are insufficient to satisfy the judgment, the sheriff is authorized to proceed under the same execution and levy on other property of the judgment debtor, not exempt from execution, for the sum remaining unsatisfied.

The rights and interest of a purchaser for value are governed by RCW 60.10.040 except as otherwise provided in Title 62A RCW. [1995 c 62 § 2.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

60.10.030 Notice and sale—Priorities—Sale procedure—Surplus—Deficiency—Obligation of lienholder.

(1) A lien foreclosure authorized by RCW 60.10.020 may be summarily foreclosed by notice and sale as provided herein. The lienholder may sell, or otherwise dispose of the collateral in its then condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the lien under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the lienholder, the holder of a subordinate security interest must seasonably furnish reasonable proof of his or her interest, and unless that is done, the lienholder need not comply with that demand.

(2) The lienholder must account to the lien debtor for any surplus, and, unless otherwise agreed, the lien debtor is not liable for any deficiency.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable which shall be construed as provided in RCW 60.10.070. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the lienholder to the lien debtor, by first-class mail, and registered or certified mail, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the lien debtor in this state or who is known by the lienholder to have a security interest in the collateral. The lienholder may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he or she may buy at private sale. Before accepting any bid or offer for purchase, the lienholder shall inform the bidder or purchaser of the existence of any prior lien or security interest in the collateral, and the identity of the holder of the prior lien or security interest. If the lienholder does not know this information, he or she shall advise the prospective purchaser of that. [2006 c 283 § 3; 1969 c 82 § 4.]

Additional notes found at www.leg.wa.gov

60.10.040 Rights and interest of purchaser for value—Certificates of title. When a lien is foreclosed in accordance with the provisions of this chapter, the disposition transfers to a purchaser for value all of the lien debtor's rights therein, discharges the lien under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the lienholder fails to comply with the requirements of this chapter:

(1) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he or she does not buy in collusion with the lienholder, other bidders, or the person conducting the sale; or

(2) In any other case, if the purchaser acts in good faith.

The purchaser takes subject to any security interest or lien that is superior to the lien under which the sale is made. In the case of property that is subject to a certificate of title, the department of licensing and the department's agents and subagents shall not transfer title through this process unless the new certificate of title reflects the security interest that is superior to the lien under which the sale is made. If a new certificate of title is issued that does not reflect the security interest that is superior to the lien under which the sale is made, the holder of such interest may request and obtain from the department of licensing a replacement certificate of title reflecting such security interest, and showing the purchaser as the registered owner. The department of licensing shall notify the purchaser of the issuance of any replacement title. [2006 c 283 § 4; 1995 c 62 § 6; 1969 c 82 § 5.]

Additional notes found at www.leg.wa.gov

60.10.050 Redemption. At any time before the lienholder has disposed of collateral or entered into a contract for its disposition under this chapter, the lien debtor or any other secured party may redeem the collateral by tendering fulfillment of all obligations to the holder that are secured by the collateral as well as the expenses reasonably incurred by the lienholder in holding and preparing the collateral for disposition, in arranging for the sale, and for reasonable attorneys' fees and legal expenses. [1995 c 62 § 7; 1969 c 82 § 6.]

60.10.060 Noncompliance with chapter—Rights of lien debtor. If it is established that the lienholder is not proceeding in accordance with the provisions of this chapter disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the lien debtor or any person entitled to notification or whose security interest has been made known to the lienholder prior to the disposition has a right to recover from the lienholder any loss caused by a failure to comply with the provisions of this chapter. The lien debtor has a right to recover in any event an amount not less than ten percent of the original lien claimed. [1969 c 82 § 7.]

60.10.070 "Commercially reasonable." As used in this chapter, "commercially reasonable" shall be construed in a manner consistent with the following:

The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the lienholder is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the lienholder either sells the collateral in the usual

manner in any recognized market therefor or if he or she sells at the price current in such market at the time of his or her sale or if he or she has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he or she has sold in a commercially reasonable manner. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable. [2012 c 117 § 133; 1969 c 82 § 8.]

Chapter 60.11 RCW CROP LIENS

Sections

60.11.010	Definitions.
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60.11.030	Attachment and effectiveness of lien on crops and proceeds—Filing.
60.11.040	Statement of lien—Filing—Contents—Duration.
60.11.050	Priorities of liens and security interests.
60.11.060	Foreclosure and enforcement of crop lien.
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60.11.130	Limitation of action to foreclose.
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60.11.900	Savings—Liens created under prior law.
60.11.901	Section captions.
60.11.903	Effective date—1986 c 242.
60.11.904	Transition rule for filings made before July 1, 2001.

60.11.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Crop" means all products of the soil either growing or cropped, cut, or gathered which require annual planting, harvesting, or cultivating. A crop includes orchard crops, but does not include vegetation produced by the powers of nature alone, nursery stock, or vegetation intended as a permanent enhancement of the land itself.

(2) "Handler" means a person who prepares an orchard crop for market for the account of, or as agent for, the producer of the orchard crop, which preparation includes, but is not limited to, receiving, storing, packing, marketing, selling, or delivering the orchard crop; and who takes delivery of the orchard crop from the producer of the orchard crop or from another handler. "Handler" does not include a person who solely transports the orchard crop from the producer or another handler to another person.

(3) "Landlord" means a person who leases or subleases to a tenant real property upon which crops are growing or will be grown.

(4) "Orchard crop" means cherries, peaches, nectarines, plums or prunes, pears, apricots, and apples.

(5) "Secured party" and "security interest" have the same meaning as used in the Uniform Commercial Code, Title 62A RCW.

(6) "Supplier" includes, but is not limited to, a person who furnishes seed, furnishes and/or applies commercial fertilizer, pesticide, fungicide, weed killer, or herbicide, includ-

ing spraying and dusting, upon the land of the grower or landowner, or furnishes any work or labor upon the land of the grower or landowner including tilling, preparing for the growing of crops, sowing, planting, cultivating, cutting, digging, picking, pulling, or otherwise harvesting any crop grown thereon, or in gathering, securing, or housing any crop grown thereon, or in threshing any grain or hauling to any warehouse any crop, including grain, grown thereon.

(7) "Lien debtor" means the person who is obligated or owes payment or other performance. If the lien debtor and the owner of the property encumbered by the crop lien or security interest are not the same person, "lien debtor" means the owner of the property encumbered by the crop lien or security interest.

(8) "Lienholder" means a person who, by statute, has acquired a lien on the property of the lien debtor, or such person's successor in interest. [2000 c 250 § 9A-824; 1991 c 286 § 1; 1986 c 242 § 1.]

Additional notes found at www.leg.wa.gov

60.11.020 Persons entitled to crop liens—Property subject to lien. (1) A landlord whose lease or other agreement with the tenant provides for cash rental payment shall have a lien upon all crops grown upon the demised land in which the landlord has an interest for payment of no more than one year's rent, where the last or only payment of such one year's rent is due or will become due within six months following the last day of harvest of the crops encumbered by the crop lien. A landlord with a crop share agreement has an interest in the growing crop which shall not be encumbered by crop liens except as provided in subsections (2) and (3) of this section.

(2) A supplier shall have a lien upon all crops for which the supplies are used or applied for payment of the purchase price of the supplies and/or services performed: PROVIDED, That the landlord's interest in the crop shall only be subject to the lien for the amount obligated to be paid by the landlord if prior written consent of the landlord is obtained or if the landlord has agreed in writing with the tenant to pay or be responsible for a portion of the supplies and/or services provided by the lienholder.

(3) A handler shall have a lien on all orchard crops delivered by the lien debtor or another handler to the handler and on all proceeds of the orchard crops for payment of: (a) All customary charges for the ordinary and necessary handling of the orchard crop, including but not limited to charges for transporting, receiving, inspecting, materials and supplies furnished, washing, waxing, sorting, packing, storing, promoting, marketing, selling, advertising, insuring, or otherwise handling the lien debtor's orchard crop; and (b) reasonable cooperative per unit retainages, and for all governmental or quasi-governmental assessments imposed by statute, ordinance, or government regulation. Charges shall not include direct or indirect advances or extensions of credit to a lien debtor. [2000 c 250 § 9A-825; 1991 c 286 § 2; 1986 c 242 § 2.]

Additional notes found at www.leg.wa.gov

60.11.030 Attachment and effectiveness of lien on crops and proceeds—Filing. (1) Upon the later of both: (a) Execution of the lease or other agreement, or commencement

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of delivery of such supplies, and/or of provision of such services giving rise to the crop lien; and (b) filing a financing statement as required by RCW 62A.9A-310 and subsection (3) of this section, the crop liens described in RCW 60.11.020 (1) and (2) shall become effective and attach to the subject crop for all sums then and thereafter due and owing the lienholder under this chapter, and those liens shall continue in all identifiable cash proceeds of the crop.

(2) Upon the delivery of an orchard crop by the lien debtor or another handler to a handler without the necessity of filing, the crop lien described in RCW 60.11.020(3) shall become effective and attach to and be perfected in the delivered orchard crop for all sums then and thereafter due and owing the lienholder under this chapter, and the lien shall continue and be perfected in all proceeds of the orchard crop.

(3) Except as provided in RCW 60.11.040(4) with respect to the lien of a landlord, and except for the lien of a handler on orchard crops as provided in RCW 60.11.020(3), the lienholder must file the required financing statement during the period after the commencement of delivery of such supplies and/or of provision of such services, but before the completion of the harvest of the crops for which the lien is claimed, or in the case of a lien for furnishing work or labor, before the end of the fortieth day after the cessation of the work or labor for which the lien is claimed. If the lienholder under the crop liens described in RCW 60.11.020 (1) or (2) is to be allowed costs, disbursements, and attorneys' fees, the lienholder must also mail a copy of such financing statement to the last known address of the debtor by certified mail, return receipt requested, within ten days after filing the financing statement. [2001 c 32 § 4; 2000 c 250 § 9A-826; 1991 c 286 § 3; 1986 c 242 § 3.]

Additional notes found at www.leg.wa.gov

60.11.040 Statement of lien—Filing—Contents—Duration. (1) Within fourteen days of receipt of a written request from the lien debtor, or other person who provides the lienholder authorization from the lien debtor for such statement, the lienholder shall provide that person a statement described in subsection (2) of this section. Failure timely to provide the statement shall cause the lienholder to be liable to the person requesting for the attorneys' fees and costs incurred by that person to obtain the statement, together with damages incurred by that person due to the failure of the lienholder to provide the statement, including in the case of the lien debtor any loss resulting from the lien debtor's inability to obtain financing, or the increased costs thereof.

(2) The statement shall be in writing, authenticated by the claimant, and shall contain in substance the following information:

- (a) The name and address of the claimant;
 - (b) The name and address of the debtor;
 - (c) The date of commencement of performance for which the lien is claimed;
 - (d) A description of the labor services, materials, or supplies furnished;
 - (e) A description of the crop and its location to be charged with the lien sufficient for identification; and
 - (f) The signature of the claimant.
- (3) The statement need not be filed with the department of licensing.

(4) A lien for rent claimed by a landlord pursuant to this chapter shall be effective during the term of the lease for a period of up to five years. A financing statement for a landlord lien covering a lease term longer than five years may be continued in accordance with *RCW 62A.9A-515(4). A landlord who has a right to a share of the crop may place suppliers on notice by filing a financing statement in the same manner as provided for filing a financing statement for a landlord's lien. [2011 c 74 § 704; 2000 c 250 § 9A-827; 1991 c 286 § 4; 1989 c 229 § 1; 1986 c 242 § 4.]

*Reviser's note: Subsection (4) was changed to subsection (d) pursuant to RCW 1.08.015.

Application—Effective date—2011 c 74: See notes following RCW 62A.9A-102.

Additional notes found at www.leg.wa.gov

60.11.050 Priorities of liens and security interests.

(1) Except as provided in subsections (2), (3), (4), and (5) of this section, conflicting liens and security interests in crops and their proceeds shall rank in accordance with the time of filing.

(2) The lien created in RCW 60.11.020(2) in favor of any person who furnishes any work or labor upon the land of the grower or landowner shall be preferred and prior to any other lien or security interest upon the crops to which they attach including the liens described in subsections (3), (4), and (5) of this section.

(3) The lien created in RCW 60.11.020(3) in favor of handlers is preferred and prior to a lien or security interest described in subsection (4) or (5) of this section and to any other lien or security interest upon the orchard crops to which they attach except the liens in favor of a person who furnishes work or labor upon the land of the grower or landlord. Whenever more than one handler holds a handler's lien created by RCW 60.11.020(3) in the same orchard crop, unless the affected parties otherwise agree in writing, the later of the liens to attach has priority over all previously attached handlers' liens created by RCW 60.11.020(3).

(4) A lien or security interest in crops otherwise entitled to priority pursuant to subsection (1) of this section shall be subordinate to a later perfected lien or security interest incurred to produce the crop to the extent that obligations secured by such earlier perfected security interest or lien were not incurred to produce such crops.

(5) A lien or security interest in crops otherwise entitled to priority pursuant to subsection (1) of this section shall be subordinate to a properly perfected landlord's lien. [2000 c 250 § 9A-828; 1991 c 286 § 5; 1986 c 242 § 5.]

Additional notes found at www.leg.wa.gov

60.11.060 Foreclosure and enforcement of crop lien.

Any lien created by this chapter may be foreclosed or enforced by: (1) An action in the district court having jurisdiction in the district in which the real property on which the crop in question was grown is situated in accordance with RCW 60.11.070, if the value of the claim does not exceed the jurisdictional limit of the district court provided in RCW 3.66.020; or (2) an action in the superior court having jurisdiction in the county in which the real property on which the crop in question was grown is situated in accordance with RCW 60.11.070, if the value of the claim exceeds the juris-

dictional limit of the district court provided in RCW 3.66.020; or (3) summary procedure as provided in RCW 60.11.080; or (4) procedures in Part 6 of Article 9A of the Uniform Commercial Code. [2000 c 250 § 9A-829; 1991 c 33 § 4; 1986 c 242 § 6.]

Additional notes found at www.leg.wa.gov

60.11.070 Judicial foreclosure. The lienholder may proceed upon his or her lien; and if there is a separate obligation in writing to pay the same, secured by the lien, he or she may bring suit upon such separate promise. When he or she proceeds on the promise, if there is a specific agreement therein contained, for the payment of a certain sum or there is a separate obligation for the sum in addition to a decree of sale of lien property, judgment shall be rendered for the amount due upon the promise or other instrument, the payment of which is thereby secured; the decree shall direct the sale of the lien property and if the proceeds of the sale are insufficient under the execution, the sheriff is authorized to levy upon and sell other property of the lien debtor, not exempt from execution, for the sum remaining unsatisfied. In a judicial foreclosure, the court shall allow reasonable attorneys' fees and disbursements for establishing a lien. [2000 c 250 § 9A-830; 1986 c 242 § 7.]

Additional notes found at www.leg.wa.gov

60.11.080 Summary foreclosure. (1) A lien may be summarily foreclosed by notice and sale as provided in this section. The lienholder may sell or otherwise dispose of the collateral in its existing condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to:

(a) The reasonable expenses of retaking, holding, preparing for sale, selling and the like, and to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) The satisfaction of indebtedness secured by the lien under which the disposition is made;

(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the lienholder, the holder of a subordinate security interest must seasonably furnish reasonable proof of his or her interest, and unless he or she does so, the lienholder need not comply with the demand.

(2) The lienholder shall account to the lien debtor for any surplus, and, unless otherwise agreed, the lien debtor is not liable for any deficiency.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place, and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline quickly in value or is of a type customarily sold on a recognized market, reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the lienholder to the lien debtor, and to any other person who has a duly filed crop lien, or who has a security interest

in the collateral and has duly filed a financing statement indexed in the name of the lien debtor in this state, or who is known by the lienholder to have a security interest or crop lien in the collateral. The lienholder may buy at any public sale, and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations the lienholder may buy at private sale. [1986 c 242 § 8.]

60.11.090 Rights and interest of purchaser for value.

When a lien is foreclosed in accordance with RCW 60.11.060, the disposition transfers to a purchaser for value all of the lien debtor's right therein and discharges the lien under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interest even though the lienholder fails to comply with the requirements of this chapter or of any judicial proceedings under RCW 60.11.070:

(1) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he or she does not buy in collusion with the lienholder, other bidders, or the person conducting the sale; or

(2) In any other case, if the purchaser acts in good faith. [1986 c 242 § 9.]

60.11.100 Redemption. The right of the lien debtor and others to redeem collateral shall be as provided in RCW 62A.9A-623. [2000 c 250 § 9A-831; 1986 c 242 § 10.]

Additional notes found at www.leg.wa.gov

60.11.110 Noncompliance with chapter—Rights of lien debtor. If the lienholder is not proceeding in accordance with the provisions of this chapter, disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the lien debtor or any person entitled to notification or whose security interest has been made known to the lienholder prior to the disposition has a right to recover from the lienholder any loss caused by a failure to comply with the provisions of this chapter. [1986 c 242 § 11.]

60.11.120 "Commercially reasonable." For purposes of this chapter, "commercially reasonable" has the meaning given and shall be construed in a manner consistent with RCW 62A.9A-627. [2000 c 250 § 9A-832; 1986 c 242 § 12.]

Additional notes found at www.leg.wa.gov

60.11.130 Limitation of action to foreclose. Judicial foreclosure or summary procedure as provided in RCW 60.11.060 shall be brought within twenty-four calendar months after filing the financing statement for the lien, except: (1) In the case of a landlord lien which shall be twenty-four calendar months from the date of default on the lease, and (2) in the case of a handler's lien on a given orchard crop which shall be twenty-four calendar months from the date of default on payment of the charges described in RCW 60.11.020(3) attributable to that orchard crop. Upon expiration of such time, the claimed lien shall expire. [2000 c 250 § 9A-833; 1986 c 242 § 13.]

Additional notes found at www.leg.wa.gov

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60.11.140 Termination statement. Whenever the total amount of the lien has been fully paid and as otherwise provided in RCW 62A.9A-513 (c) and (d), within twenty days following receipt of an authenticated demand following such full payment of the lien, the lienholder filing a lien shall send to the lien debtor or file with the department of licensing a termination statement for the financing statement. Failure to file a termination statement by the lienholder or the assignee of the lienholder shall cause the lienholder or its assignee to be liable to the debtor for the attorneys' fees and costs incurred by the debtor to have the lien terminated together with damages incurred by the debtor due to the failure of the lienholder to terminate the lien. [2000 c 250 § 9A-834; 1991 c 286 § 6; 1986 c 242 § 14.]

Additional notes found at www.leg.wa.gov

60.11.900 Savings—Liens created under prior law.

Liens created prior to January 1, 1987, which are based on statutes repealed by *this act, shall remain in effect for the duration provided by the law in effect before January 1, 1987. The department of licensing shall notify persons requesting information for crop liens that, for this transition period, records of crop liens may exist at a county auditor's office as well as at the department of licensing. [1986 c 242 § 15.]

*Reviser's note: "this act" [1986 c 242] repealed chapters 60.12, 60.14, and 60.22 RCW.

60.11.901 Section captions. As used in this chapter, section captions constitute no part of the law. [1986 c 242 § 18.]

60.11.903 Effective date—1986 c 242. This act shall take effect January 1, 1987. [1986 c 242 § 21.]

60.11.904 Transition rule for filings made before July 1, 2001. All statements filed with the department of licensing under this chapter before July 1, 2001, shall satisfy the requirements of RCW 62A.9A-310 and 60.11.030 for filing a financing statement. [2001 c 32 § 5; 2000 c 250 § 9A-835.]

Additional notes found at www.leg.wa.gov

Chapter 60.13 RCW PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL PRODUCTS

Sections

60.13.010	Definitions.
60.13.020	Processor lien.
60.13.030	Preparer lien for grain, hay, or straw.
60.13.035	Notice of preparer lien for dairy products—Proof of lien.
60.13.038	Wine producer lien—First priority—Terms.
60.13.040	Filing of statement evidencing lien—Contents—Standard filing forms, fees, and procedures.
60.13.050	Priority of lien.
60.13.053	Priority of lien—Wine.
60.13.060	Duration of lien—Statement of discharge.
60.13.070	Foreclosure and enforcement of lien—Costs.

60.13.010 Definitions. As used in this chapter, the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Agricultural product" means any unprocessed horticultural, vermicultural and its by-products, viticultural, berry,

poultry, poultry product, grain, bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form and livestock. When used in RCW 60.13.020, "agricultural product" means horticultural, viticultural, aquacultural, or berry products, hay and straw, milk and milk products, vegetable seed, or turf and forage seed and applies only when such products are delivered to a processor or conditioner in an unprocessed form.

(2) "Commercial fisher" means a person licensed to fish commercially for or to take food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

(3) "Conditioner," "consignor," "person," and "producer" have the meanings defined in RCW 20.01.010.

(4) "Delivers" means that a producer completes the performance of all contractual obligations with reference to the transfer of actual or constructive possession or control of an agricultural product to a processor or conditioner or preparer, regardless of whether the processor or conditioner or preparer takes physical possession.

(5) "Fish" means food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

(6) "Preparer" means a person engaged in the business of feeding livestock or preparing livestock products for market.

(7) "Processor" means any person, firm, company, or other organization that purchases agricultural products except milk and milk products from a consignor and that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner whatsoever for eventual resale, or that purchases or markets milk from a dairy producer and is obligated to remit payment to such dairy producer directly.

(8) "Vinifera grapes" means the agricultural product commonly known as *Vitis vinifera* and those hybrid of *Vitis vinifera* that have predominantly the character of *Vitis vinifera*.

(9) "Wine producer" means any person or other entity licensed under Title 66 RCW to produce within the state wine from vinifera grapes. [2013 c 23 § 118. Prior: 2012 c 106 § 1; 2002 c 278 § 1; 1991 c 174 § 2; 1987 c 148 § 1; 1985 c 412 § 1.]

60.13.020 Processor lien. Starting on the date a producer delivers any agricultural product to a processor or conditioner, the producer has a first priority statutory lien, referred to as a "processor lien." A commercial fisher who delivers fish to a processor also has a first priority statutory "processor lien" starting on the date the fisher delivers fish to the processor. This processor lien shall continue until twenty days after payment for the product is due and remains unpaid, without filing any notice of lien, for the contract price, if any, or the fair market value of the products delivered. The processor lien attaches to the agricultural products or fish delivered, to the processor's or conditioner's inventory, and to the processor's or conditioner's accounts receivable. However, no processor lien may attach to agricultural products or fish delivered by a producer or commercial fisher, or on the producer's or fisher's behalf, to a processor which is organized and operated on a cooperative basis and of which the pro-

ducer or fisher is a member, nor may such lien attach to such processor's inventory or accounts receivable. [2013 c 23 § 119; 1987 c 148 § 2; 1985 c 412 § 2.]

60.13.030 Preparer lien for grain, hay, or straw. Starting on the date a producer delivers grain, hay, or straw to a preparer, the producer has a first priority statutory lien, referred to as a "preparer lien." This preparer lien shall continue twenty days after payment for the product is due and remains unpaid, without filing any notice of lien, for the contract price, if any, or the fair market value of the products delivered. The preparer lien attaches to the agricultural products delivered by the producer to the preparer, and to the preparer's accounts receivable. [1985 c 412 § 3.]

60.13.035 Notice of preparer lien for dairy products—Proof of lien. A person who controls or possesses amounts payable to the preparer of dairy products or the preparer's assigns, if the preparer or preparer's assigns is not a producer-handler, which are properly encumbered by a preparer's lien upon an account receivable shall not be obligated to pay a producer amounts to which the producer's preparer lien has attached until that person receives written notice of such lien, nor shall that person be liable to the producer for any amounts paid out prior to receipt of said notice. The notice required herein shall contain the information described in RCW 60.13.040(2). If requested by the person responsible for payment of such amounts, the producer must seasonably furnish reasonable proof that the preparer lien continues to exist and unless such proof is so furnished, that person has no obligation to pay the producer. A preparer of dairy products shall provide the name of the purchaser or marketing agent of the products to the producer upon request.

Failure to furnish the written notice as provided in this section shall not affect the status of the lien established under this chapter in regard to the relationship with other creditors. [1986 c 178 § 15.]

60.13.038 Wine producer lien—First priority—Terms. Starting on the date a producer of vinifera grapes delivers vinifera grapes to a wine producer, the producer has a first priority statutory lien, referred to as a wine producer lien. This wine producer lien shall continue, without filing notice of lien, until sixty days after payment for the product is due and remains unpaid, for the contract price, if any, or the fair market value of the products delivered. The wine producer lien attaches to the vinifera grapes delivered, to the wine producer's inventory, and to the wine producer's accounts receivable. For purposes of this section, payment is due on the date specified in the contract, or if not specified or no contract exists, then within thirty days from time of delivery. [2012 c 106 § 2.]

60.13.040 Filing of statement evidencing lien—Contents—Standard filing forms, fees, and procedures. (1) A producer or commercial fisher claiming a wine producer, processor, or preparer lien may file a statement evidencing the lien with the department of licensing after payment from the wine producer, processor, conditioner, or preparer to the producer or fisher is due and remains unpaid. For purposes of this subsection and RCW 60.13.050, payment is due on the

date specified in the contract, or if not specified, then within thirty days from time of delivery.

(2) The statement shall be in a record, authenticated by the producer or fisher, and shall contain in substance the following information:

(a) A true statement or a reasonable estimate of the amount demanded after deducting all credits and offsets;

(b) The name of the wine producer, processor, conditioner, or preparer who received the agricultural product or fish to be charged with the lien;

(c) A description sufficient to identify the agricultural product or fish to be charged with the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien;

(e) The date on which payment was due for the agricultural product or fish to be charged with the lien; and

(f) The department of licensing may by rule prescribe standard filing forms, fees, and uniform procedures for filing with, and obtaining information from, filing officers. [2013 c 23 § 120; 2012 c 106 § 3; 2002 c 278 § 2; 2001 c 32 § 6. Prior: 1987 c 189 § 7; 1987 c 148 § 3; 1985 c 412 § 4.]

Additional notes found at www.leg.wa.gov

60.13.050 Priority of lien. (1)(a) If a statement is filed pursuant to RCW 60.13.040 within twenty days of the date upon which payment from the processor, conditioner, or preparer to the producer or commercial fisher is due and remains unpaid, the processor or preparer lien evidenced by the statement continues its priority over all other liens or security interests upon agricultural products or fish, inventory, and accounts receivable, except as provided in (b) of this subsection. Such priority is without regard to whether the other liens or security interests attached before or after the date on which the processor or preparer lien attached.

(b) The processor or preparer lien shall be subordinate to liens for taxes or labor perfected before filing of the processor or preparer lien.

(2) If the statement provided for in RCW 60.13.040 is not filed within twenty days of the date payment is due and remains unpaid, the processor or preparer lien shall thereupon become subordinate to:

(a) A lien that has attached to the agricultural product or fish, inventory, or accounts receivable before the date on which the processor or preparer lien attaches; and

(b) A perfected security interest in the agricultural product or fish, inventory, or accounts receivable. [2013 c 23 § 121; 1987 c 148 § 4; 1985 c 412 § 5.]

60.13.053 Priority of lien—Wine. (1)(a) If a statement is filed pursuant to RCW 60.13.040 within sixty days of the date upon which payment from the wine producer is due and remains unpaid, the wine producer lien evidenced by the statement continues its priority over all other liens or security interests upon the vinifera grapes delivered, inventory, and accounts receivable, except as provided in (b) of this subsection. This priority is without regard to whether the other liens or security interests attached before or after the date on which the wine producer lien attached.

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(b) The wine producer lien is subordinate to liens for taxes or labor perfected before filing of the wine producer lien.

(2) If the statement provided for in RCW 60.13.040 is not filed within sixty days of the date payment is due and remains unpaid, the wine producer lien thereupon becomes subordinate to:

(a) A lien that has attached to the vinifera grapes delivered, inventory, or accounts receivable before the date on which the wine producer lien attaches; and

(b) A perfected security interest in the vinifera grapes delivered, inventory, or accounts receivable. [2012 c 106 § 4.]

60.13.060 Duration of lien—Statement of discharge.

(1) The wine producer or processor lien shall terminate twelve months after, and the preparer lien shall terminate fifty days after, the later of the date of attachment or filing, unless a suit to foreclose the lien has been filed before that time as provided in RCW 60.13.070.

(2) If a statement has been filed as provided in RCW 60.13.040 and the producer or commercial fisher has received payment for the obligation secured by the lien, the producer or fisher shall promptly file with the department of licensing a statement declaring that full payment has been received and that the lien is discharged. If, after payment, the producer or fisher fails to file such statement of discharge within ten days following a request to do so, the producer or fisher shall be liable to the wine producer, processor, conditioner, or preparer in the sum of one hundred dollars plus actual damages caused by the failure. [2013 c 23 § 122; 2012 c 106 § 5; 2002 c 278 § 3; 1987 c 148 § 5; 1985 c 412 § 6.]

60.13.070 Foreclosure and enforcement of lien—

Costs. (1) The wine producer, processor, or preparer liens may be foreclosed and enforced by civil action in superior court.

(2) In all suits to enforce wine producer, processor, or preparer liens, the court shall, upon entering judgment, allow to the prevailing party as a part of the costs, all moneys paid for the filing and recording of the lien and reasonable attorney fees. [2012 c 106 § 6; 1985 c 412 § 7.]

Chapter 60.16 RCW

LABOR LIENS ON ORCHARDS AND ORCHARD LANDS

Sections

60.16.010	Liens authorized.
60.16.020	Notice of lien—Filing—Contents—Foreclosure.
60.16.030	Limitation of action to foreclose—Costs.

60.16.010 Liens authorized. Any person or corporation who shall do or cause to be done any labor upon any orchard or orchard lands, in pruning, spraying, cultivating, and caring for the same, at the request of the owner thereof, or his or her agent, shall have a lien upon such orchard and orchard lands for such work and labor so performed. [2012 c 117 § 134; 1917 c 110 § 1; RRS § 1131-1.]

60.16.020 Notice of lien—Filing—Contents—Foreclosure. Any person or corporation claiming the benefit of this chapter, must within forty days after the close of such work or labor for each season during which such work and labor is done, file for record with the county auditor of the county in which said work and labor was performed and in which said land or part thereof is situated, a claim of lien which shall be in substance in accordance with the provisions of *RCW 60.04.060, so far as the same is applicable, which said claim of lien shall be verified as in said section provided, and such lien may be enforced in a civil action in the same manner as near as may be, as provided in *RCW 60.04.120. [1917 c 110 § 2; RRS § 1131-2.]

*Reviser's note: RCW 60.04.060 and 60.04.120 were repealed by 1991 c 281 § 31, effective April 1, 1992.

60.16.030 Limitation of action to foreclose—Costs. Any action to foreclose such claim of lien shall be brought within eight calendar months after the filing of such claim for lien as provided in RCW 60.16.020 and in any such action brought to enforce such lien, the court shall allow as part of the costs the money paid for making, filing and recording such claim of lien and a reasonable attorney's fee. [1917 c 110 § 3; RRS § 1131-3.]

Chapter 60.24 RCW

LIEN FOR LABOR AND SERVICES ON TIMBER AND LUMBER

Sections

60.24.020	Liens on saw logs, spars, piles, cord wood, shingle bolts, or other timber.
60.24.030	Lien on lumber—"Lumber" defined.
60.24.033	Lien on real property for labor or services on timber and lumber.
60.24.035	Lien for stumpage.
60.24.038	Priority of lien.
60.24.040	Period covered by labor liens.
60.24.070	Period covered by stumpage lien.
60.24.075	Claims—Contents—Form.
60.24.080	Filing claim for stumpage lien.
60.24.100	Recording claims—Fees.
60.24.110	Limitation of action.
60.24.120	Venue—Procedure.
60.24.130	Sheriff as receiver—Deposit to recover possession—Costs.
60.24.140	Pleadings by defendant—Amendments—Hearing.
60.24.150	Enforcement against all or part of property.
60.24.160	Errors in claim, effect of.
60.24.170	Purchase of property subject to lien—Presumption of notice.
60.24.180	Joinder—Costs.
60.24.190	Judgment—Sale—Disposition of proceeds.
60.24.195	Sale of property subject to lien—When.
60.24.200	Damages for eloining, injuring, destroying, or removing marks, etc.—Recovery.

Lien under this chapter extends to real property on which labor and services are performed: RCW 60.24.033.

60.24.020 Liens on saw logs, spars, piles, cord wood, shingle bolts, or other timber. Every person performing labor upon or who shall assist in obtaining or securing saw logs, spars, piles, cord wood, shingle bolts, or other timber, and the owner or owners of any tugboat or towboat, which shall tow or assist in towing, from one place to another within this state, any saw logs, spars, piles, cord wood, shingle bolts, or other timber, and the owner or owners of any team or any logging engine, which shall haul or assist in hauling from one place to another within this state, any saw logs, spars, piles, cord wood, shingle bolts, or other timber, and the owner or

owners of any logging or other railroad over which saw logs, spars, piles, cord wood, shingle bolts, or other timber shall be transported and delivered, shall have a lien upon the same for the work or labor done upon, or in obtaining or securing, or for services rendered in towing, transporting, hauling, or driving, the particular saw logs, spars, cord wood, shingle bolts, or other timber in said claim of lien described whether such work, labor, or services was done, rendered, or performed at the instance of the owner of the same or his or her agent. Scalers, and bull cooks, and cooks, flunkeys and waiters in lumber camps, shall be regarded as persons who assist in obtaining or securing the timber herein mentioned. [2012 c 117 § 135; 1923 c 10 § 1; 1907 c 9 § 1; 1895 c 88 § 1; 1893 c 132 § 1; RRS § 1162. Prior: Code 1881 § 1941; 1879 p 100 § 2; 1877 p 217 § 3; 1860 p 340 § 1.]

60.24.030 Lien on lumber—"Lumber" defined. Every person performing work or labor or assisting in manufacturing saw logs and other timber into lumber and shingles, has a lien upon such lumber while the same remains at the mill where it was manufactured, or in the possession or under the control of the manufacturer, whether such work or labor was done at the instance of the owner of such logs or his or her agent or any contractor or subcontractor of such owner. The term "lumber," as used in this chapter, shall be held and be construed to mean all logs or other timber sawed or split for use, including beams, joists, planks, boards, shingles, laths, staves, hoops, and every article of whatsoever nature or description manufactured from saw logs or other timber. [2012 c 117 § 136; 1893 c 132 § 2; 1893 c 10 § 1; RRS § 1163. Prior: Code 1881 § 1942; 1877 p 217 § 4. Formerly RCW 60.24.010, part.]

60.24.033 Lien on real property for labor or services on timber and lumber. The lot tract, parcel of land, or any other type of real property or real property improvements upon which the type of activities listed in RCW 60.24.020, 60.24.030, or 60.24.035 are to be performed, or so much property thereof as may be necessary to satisfy the lien and the judgment thereon, to be determined by the court on rendering judgment in a foreclosure of lien, shall also be subject to the lien to the extent of its interest of the persons who in their own behalf, or through any of their agents, caused any of the types of activities listed in RCW 60.24.020, 60.24.030, or 60.24.035. [1986 c 179 § 1. Formerly RCW 60.04.045.]

60.24.035 Lien for stumpage. Any person who shall permit another to go upon his or her timberland and cut thereon saw logs, spars, piles, or other timber, has a lien upon the same for the price agreed to be paid for such privilege, or for the price such privilege would be reasonably worth in case there was no express agreement fixing the price. [2012 c 117 § 137; 1893 c 132 § 3; RRS § 1164. Prior: Code 1881 § 1943; 1877 p 217 § 5. Formerly RCW 60.24.060.]

60.24.038 Priority of lien. The liens provided for in this chapter are preferred liens and are prior to any other liens, and no sale or transfer of any saw logs, spars, piles or other timber or manufactured lumber or shingles shall divest the lien thereon as herein provided, and as between liens provided for in this chapter those for work and labor shall be pre-

ferred: PROVIDED, That as between liens for work and labor claimed by several laborers on the same logs or lot of logs the claim or claims for work or labor done or performed on the identical logs proceeded against to the extent that said logs can be identified, shall be preferred as against the general claim of lien for work and labor recognized and provided for in this chapter. [1893 c 132 § 4; RRS § 1165. Prior: Code 1881 § 1944; 1877 p 217 § 6. Formerly RCW 60.24.090.]

60.24.040 Period covered by labor liens. The person rendering the service of [or] doing the work or labor named in RCW 60.24.020 and 60.24.030 is only entitled to the liens as provided herein for services, work or labor for the period of eight calendar months, or any part thereof next preceding the filing of the claim, as provided in *section 8 of this act. [1893 c 132 § 5; RRS § 1166. Prior: Code 1881 § 1945; 1877 p 217 § 7.]

*Reviser's note: "section 8 of this act" is codified as RCW 60.24.080. Section 7 (codified as RCW 60.24.075) was probably intended.

60.24.070 Period covered by stumpage lien. The person granting the privilege mentioned in RCW 60.24.035 is only entitled to the lien as provided therein for saw logs, spars, piles and other timber cut during the eight months next preceding the filing of the claim, as herein provided in RCW 60.24.075. [1893 c 132 § 6; RRS § 1167. Prior: Code 1881 § 1946; 1877 p 217 § 8.]

60.24.075 Claims—Contents—Form. Every person, within sixty days after the close of the rendition of the services, or after the close of the work or labor mentioned in the preceding sections, claiming the benefit hereof, must file for record with the county auditor of the county in which such saw logs, spars, piles, and other timber were cut, or in which such lumber or shingles were manufactured, a claim containing a statement of his or her demand and the amount thereof, after deducting as nearly as possible all just credits and offsets, with the name of the person by whom he or she was employed, with a statement of the terms and conditions of his or her contract, if any, and in case there is no express contract, the claim shall state what such service, work, or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien sufficient for identification with reasonable certainty, which claim must be verified by the oath of himself or herself or some other person to the effect that the affiant believes the same to be true, which claim shall be substantially in the following form:

..... Claimant, vs.

Notice is hereby given that of county, state of Washington, claims a lien upon a of, being about in quantity, which were cut or manufactured in county, state of Washington, are marked thus, and are now lying in, for labor performed upon and assistance rendered in said, that the name of the owner or reputed owner is, that employed said to perform such labor and render such assistance upon the following terms and conditions, to wit:

The said agreed to pay the said for such labor and assistance, that said contract has been faith-

fully performed and fully complied with on the part of said, who performed labor upon and assisted in said for the period of; that said labor and assistance were so performed and rendered upon said between the day of and the day of; and the rendition of said service was closed on the day of, and sixty days have not elapsed since that time; that the amount of claimant's demand for said service is, that no part thereof has been paid except, and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of, in which amount he or she claims a lien upon said, The said also claims a lien on all said now owned by said of said county to secure payment for the work and labor performed in obtaining or securing the said logs, spars, piles, or other timber, lumber, or shingles herein described.

State of Washington, county of ss.

..... being first duly sworn, on oath says that he or she is named in the foregoing claim, has heard the same read, knows the contents thereof, and believes the same to be true.

.....
Subscribed and sworn to before me this day of

.....
[2012 c 117 § 138; 1986 c 179 § 2; 1893 c 132 § 7; RRS § 1168. Prior: Code 1881 § 1947; 1879 p 100 § 4; 1877 p 217 § 9. Formerly RCW 60.24.050.]

60.24.080 Filing claim for stumpage lien. Every person mentioned in RCW 60.24.035 claiming the benefit thereof must file for record with the county auditor of the county in which such saw logs, spars, piles or other timber were cut, a claim in substance the same as provided in RCW 60.24.075, and verified as therein provided. [1893 c 132 § 8; RRS § 1169. Prior: Code 1881 § 1948; 1877 p 218 § 10.]

60.24.100 Recording claims—Fees. The county auditor must record any claim filed under this chapter in a book kept by him or her for that purpose, which record must be indexed, as deeds and other conveyances are required by law to be indexed, and for which he or she may receive the same fees as are allowed by law for recording deeds and other instruments. [2012 c 117 § 139; 1893 c 132 § 9; RRS § 1170. Prior: Code 1881 § 1949; 1877 p 218 § 11.]

60.24.110 Limitation of action. No lien provided for in this chapter binds any saw logs, spars, piles or other timber, or lumber and shingles, for a longer period than eight calendar months after the claim as herein provided has been filed, unless a civil action be commenced in a proper court, within that time, to enforce the same: PROVIDED, HOWEVER, That in case such civil action so commenced should for any cause other than the merits, be nonsuited or dismissed, then the lien shall continue for the term of one calendar month, if the said eight months have expired, to permit the commencement of another action thereon, which shall be as effective in

prolonging the lien as if it had been entered during the term of eight months hereinbefore stated. [1893 c 132 § 10; RRS § 1171. Prior: Code 1881 § 1950; 1879 p 100 § 5; 1877 p 218 § 12.]

60.24.120 Venue—Procedure. The liens provided for in this chapter shall be enforced by a civil action in the superior court of the county wherein the lien was filed, and shall be governed by the laws regulating the proceedings in civil actions touching the mode and manner of trial, and the proceedings and laws to secure property so as to hold it for the satisfaction of any lien that be against it; except as hereinafter otherwise provided. [1893 c 132 § 11; RRS § 1172. Prior: Code 1881 § 1951; 1877 p 218 § 13.]

60.24.130 Sheriff as receiver—Deposit to recover possession—Costs. The sheriff of the county wherein the lien is filed shall be the receiver when one is appointed, and the superior court upon a showing made shall appoint such receiver without notice, who shall be allowed such fees as may seem just to the court, which fees shall be accounted for by such sheriff as other fees collected by him or her in his or her official capacity: PROVIDED, That at any time when any property is in the custody of such sheriff under the provisions of this chapter, and any person claiming any interest therein, may deposit with the clerk of the court in which such action is pending, a sum of money in an amount equal to the claim sued upon, together with one hundred dollars, to cover costs and interest, (unless the court shall make an order fixing a different amount to cover such costs and interest, then such an amount as the court shall fix to secure such costs and interest, which such action is being prosecuted) and shall have the right to demand and receive forthwith from such sheriff the possession and custody of such property: PROVIDED, That in no action brought under the provisions of this chapter shall costs be allowed to lienholders unless a demand has been made for payment of his or her lien claim before commencement of suit, unless the court shall find the claimants at time of bringing action had reasonable ground to believe that the owner or the person having control of the property upon which such lien is claimed was attempting to defraud such claimant, or prevent the collection of such lien. [2012 c 117 § 140; 1899 c 90 § 1; 1893 c 132 § 12; RRS § 1173.]

60.24.140 Pleadings by defendant—Amendments—Hearing. If the defendant or defendants appear in a suit to enforce any lien provided by this chapter, he, she, or they shall make their answer on the merits of the complaint, and any motion or demurrer against the said complaint must be filed with the answer; and no motion shall be allowed to make complaint more definite and certain, if it appear to the court that the defendant or defendants have or should have knowledge of the facts, or that it can be made more certain and definite by facts which will appear necessarily in the testimony; but the case, unless the court sustains the demurrer to the complaint, shall be heard on the merits as speedily as possible, and amendments of the pleadings, if necessary, shall be liberally allowed. [2012 c 117 § 141; 1893 c 132 § 13; RRS § 1174.]

60.24.150 Enforcement against all or part of property. Any person who shall bring a civil action to enforce the lien herein provided for, or any person having a lien as herein provided for, who shall be made a party to any such civil action, has the right to demand that such lien be enforced against the whole or any part of the saw logs, spars, piles, or other timber or manufactured lumber or shingles upon which he or she has performed labor or which he or she has assisted in securing or obtaining, or which he or she has cut on his or her timberland during the eight months next preceding the filing of his or her lien, for all his or her labor upon or for all his or her assistance in obtaining or securing said logs, spars, piles, or other timber, or in manufacturing said lumber or shingles during the whole or any part of the eight months mentioned in *section seven (7) of this act, or for timber cut during the whole or any part of the eight months above mentioned. And where proceedings are commenced against any lot of saw logs, spars, piles, or other timber or lumber or shingles as herein provided, and some of the lienors claim liens against the specific logs, spars, piles, or other timber or lumber or shingles proceeded against, and others against the same generally, to secure their claims for work and labor, the priority of the liens shall be determined as hereinbefore provided. [2012 c 117 § 142; 1893 c 132 § 14; RRS § 1175. Prior: Code 1881 § 1952; 1877 p 218 § 14.]

**Reviser's note:* "section seven (7) of this act" is codified as RCW 60.24.075. Section 5 (codified as RCW 60.24.040) was probably intended.

60.24.160 Errors in claim, effect of. No mistake or error in the statement of the demand, or of the amount of credits and offsets allowed, or of the balance asserted to be due to claimant, nor in the description of the property against which the claim is filed, shall invalidate the lien, unless the court finds that such mistake or error in the statement of the demand, credits and offsets or of the balance due was made with intent to defraud, or the court shall find that an innocent third party without notice, direct or constructive, has, since the claim was filed, become the bona fide owner of the property lienied upon, and that the notice of claim was so deficient that it did not put the party upon further inquiry, in any manner. [1893 c 132 § 15; RRS § 1176.]

60.24.170 Purchase of property subject to lien—Presumption of notice. It shall be conclusively presumed by the court that a party purchasing the property lienied upon within thirty days given herein to claimants wherein to file their liens, is not an innocent third party, nor that he or she has become a bona fide owner of the property lienied upon, unless it shall appear that he or she has paid full value for the said property, and has seen that the purchase money of the said property has been applied to the payment of such bona fide claims as are entitled to liens upon the said property under the provisions of this chapter, according to the priorities herein established. [2012 c 117 § 143; 1893 c 132 § 16; RRS § 1177.]

60.24.180 Joinder—Costs. Any number of persons claiming liens under this chapter may join in the affidavit in RCW 60.24.075 provided, and may join in the same action, and when separate actions are commenced the court may consolidate them. The court shall also allow as part of the costs

the moneys paid for filing, making and recording the claim, and a reasonable attorney's fee for each person claiming a lien. [1901 c 23 § 1; 1893 c 132 § 17; RRS § 1178. Prior: Code 1881 § 1691; 1877 p 219 § 15.]

60.24.190 Judgment—Sale—Disposition of proceeds.

In each civil action, judgment must be rendered in favor of each person having a lien for the amount due to him or her, and the court or judge thereof shall order any property subject to the lien herein provided for to be sold by the sheriff of the proper county in the same manner that personal property is sold on execution, and the court or judge shall apportion the proceeds of such sale to the payment of each judgment, according to the priorities established in this chapter pro rata in its class according to the amount of such judgment. [2012 c 117 § 144; 1893 c 132 § 18; RRS § 1179. Prior: Code 1881 § 1954; 1877 p 219 § 16. FORMER PART OF SECTION: 1893 c 132 § 19; RRS § 1180 now codified as RCW 60.24.195.]

Sale of property on execution: Chapter 6.21 RCW.

60.24.195 Sale of property subject to lien—When.

The court or judge may order any property subject to a lien as in this chapter provided to be sold by the sheriff as personal property is sold on execution either before or at the time judgment is rendered, as provided in RCW 60.24.190, and the proceeds of such sale must be paid into court to be applied as in RCW 60.24.190 directed. [1893 c 132 § 19; RRS § 1180. Prior: Code 1881 § 1955; 1877 p 219 § 17. Formerly RCW 60.24.190, part.]

Sale of property on execution: Chapter 6.21 RCW.

60.24.200 Damages for eloigning, injuring, destroying, or removing marks, etc.—Recovery. Any person who shall eloign, injure, or destroy, or who shall render difficult, uncertain, or impossible of identification any saw logs, spars, piles, shingles, or other timber upon which there is a lien as herein provided, without the express consent of the person entitled to such lien, shall be liable to the lienholder for the damages to the amount secured by his or her lien, and it being shown to the court in the civil action to enforce said lien, it shall be the duty of the court to enter a personal judgment for the amount in such action against the said person, provided he or she be a party to such action, or the damages may be recovered by a civil action against such person. [2012 c 117 § 145; 1893 c 132 § 20; RRS § 1181. Prior: Code 1881 § 1956; 1877 p 219 § 18.]

Chapter 60.28 RCW

LIEN FOR LABOR, MATERIALS, TAXES ON PUBLIC WORKS

Sections

60.28.011	Retained percentage—Public transportation projects—Labor and material lien created—Bond in lieu of retained funds—Termination before completion—Chapter deemed exclusive—Release of ferry contract payments—Projects of farmers home administration—General contractor/construction manager procedure—Definitions.
60.28.015	Recovery from retained percentage—Written notice to contractor of materials furnished.
60.28.021	Excess over lien claims paid to contractor.
60.28.030	Foreclosure of lien—Limitation of action—Release of funds.

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60.28.040	Tax liens—Priority of liens.
60.28.051	Duties of disbursing officer upon completion of contract.
60.28.060	Duties of disbursing officer upon final acceptance of contract—Request of payment of taxes, increases, penalties, and claims.
60.28.080	Delay due to litigation—Change order or force account directive—Costs—Arbitration—Termination.

Contractor's bond for payment of mechanics, laborers, materialmen, etc., on public works: Chapter 39.08 RCW.

60.28.011 Retained percentage—Public transportation projects—Labor and material lien created—Bond in lieu of retained funds—Termination before completion—Chapter deemed exclusive—Release of ferry contract payments—Projects of farmers home administration—General contractor/construction manager procedure—Definitions.

(1)(a) Except as provided in (b) of this subsection, public improvement contracts must provide, and public bodies must reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (i) The claims of any person arising under the contract; and (ii) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50, 51, and 82 RCW which may be due from such contractor.

(b) Public improvement contracts funded in whole or in part by federal transportation funds must rely upon the contract bond as referred to in chapter 39.08 RCW for the protection and payment of: (i) The claims of any person or persons arising under the contract to the extent such claims are provided for in RCW 39.08.010; and (ii) the state with respect to taxes, increases, and penalties incurred on the public improvement project under Titles 50, 51, and 82 RCW which may be due. The contract bond must remain in full force and effect until, at a minimum, all claims filed in compliance with chapter 39.08 RCW are resolved.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract has a lien upon moneys reserved by a public body under the provisions of a public improvement contract. However, the notice of the lien of the claimant must be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the amounts retained (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapter 39.12 RCW and this chapter.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapter 39.12 RCW and this chapter.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, must be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan

association. Interest on moneys reserved by a public body under the provision of a public improvement contract must be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are placed in escrow, the public body must issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. This check must be converted into bonds and securities chosen by the contractor and approved by the public body and the bonds and securities must be held in escrow. Interest on the bonds and securities must be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor must pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) A contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body and from an authorized surety insurer. The public body may require that the authorized surety have a minimum A.M. Best financial strength rating so long as that minimum rating does not exceed A-. The public body must comply with the provisions of RCW 48.28.010. At any time prior to final formal acceptance of the project, a subcontractor may request the contractor to submit a bond to the public owner for that portion of the contractor's retainage pertaining to the subcontractor in a form acceptable to the public body and from a bonding company meeting standards established by the public body. The contractor may withhold the subcontractor's portion of the bond premium. Within thirty days of receipt of the request, the contractor shall provide and the public body shall accept a bond meeting these requirements unless the public body can demonstrate good cause for refusing to accept it, the bond is not commercially available, or the subcontractor refuses to pay the subcontractor's portion of the bond premium and to provide the contractor with a like bond. The contractor's bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body must release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor must accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor must then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and

make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this section must be held for a period of sixty days following the completion. In the event that the work is terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter are exclusive and supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.021 and chapter 39.12 RCW. However, the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes may be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue, the employment security department, the department of labor and industries, and the material suppliers and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) This subsection applies only to a public body that has contracted for the construction of a facility using the general contractor/construction manager procedure, as defined under RCW 39.10.210. If the work performed by a subcontractor on the project has been completed within the first half of the time provided in the general contractor/construction manager contract for completing the work, the public body may accept the completion of the subcontract. The public body must give public notice of this acceptance. After a forty-five day period for giving notice of liens, and compliance with the retainage release procedures in RCW 60.28.021, the public body may release that portion of the retained funds associated with the subcontract. Claims against the retained funds after the forty-five day period are not valid.

(12) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or material person who performs labor or provides materials for a public improvement contract, and any other

person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services, or a work order as defined in RCW 39.10.210. [2017 c 302 § 1; 2015 c 280 § 1; 2013 c 113 § 1; 2011 c 231 § 2. Prior: 2009 c 432 § 5; 2009 c 219 § 6; prior: 2007 c 494 § 504; 2007 c 218 § 92; 2003 c 301 § 7; 2000 c 185 § 1; 1994 c 101 § 1; 1992 c 223 § 2.]

Intent—Recognition—2011 c 231: "The legislature recognizes that federal regulations include requirements that pertain to contracts funded by federal-aid highway funds. One such requirement is that states must ensure that prime contractors pay subcontractors in full by no later than thirty days after the subcontractor's work is satisfactorily completed. One option for meeting this requirement is to decline to hold retainage from prime contractors. The legislature also recognizes that retainage is currently used to ensure that claims against the contractor are resolved in a timely manner. The legislature intends that the contract bond provided by sureties on behalf of general contractors provides adequate security for claimants under the bond." [2011 c 231 § 1.]

Report—2009 c 432: See RCW 18.27.800.

Intent—Finding—2007 c 218: See note following RCW 1.08.130.

Additional notes found at www.leg.wa.gov

60.28.015 Recovery from retained percentage—

Written notice to contractor of materials furnished.

Every person, firm, or corporation furnishing materials, supplies, or equipment to be used in the construction, performance, carrying on, prosecution, or doing of any work for the state, or any county, city, town, district, municipality, or other public body, shall give to the contractor of the work a notice in writing, which notice shall cover the material, supplies, or equipment furnished or leased during the sixty days preceding the giving of such notice as well as all subsequent materials, supplies, or equipment furnished or leased, stating in substance and effect that such person, firm, or corporation is and/or has furnished materials and supplies, or equipment for use thereon, with the name of the subcontractor ordering the same, and that a lien against the retained percentage may be claimed for all materials and supplies, or equipment furnished by such person, firm, or corporation for use thereon, which notice shall be given by (1) mailing the same by registered or certified mail in an envelope addressed to the contractor, or (2) by serving the same personally upon the contractor or the contractor's representative and obtaining evidence of such service in the form of a receipt or other acknowledgment signed by the contractor or the contractor's representative, and no suit or action shall be maintained in any court against the retained percentage to recover for such material, supplies, or equipment or any part thereof unless the provisions of this section have been complied with. [1986 c 314 § 5.]

60.28.021 Excess over lien claims paid to contractor.

After the expiration of the forty-five day period for giving notice of lien provided in RCW 60.28.011(2), and after receipt of the certificates of the department of revenue, the employment security department, and the department of labor and industries, and the public body is satisfied that the taxes certified as due or to become due by the department of revenue, the employment security department, and the

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department of labor and industries are discharged, and the claims of material suppliers and laborers who have filed their claims, together with a sum sufficient to defray the cost of foreclosing the liens of such claims, and to pay attorneys' fees, have been paid, the public body may withhold from the remaining retained amounts for claims the public body may have against the contractor and shall pay the balance, if any, to the contractor the fund retained by it or release to the contractor the securities and bonds held in escrow.

If such taxes have not been discharged or the claims, expenses, and fees have not been paid, the public body shall either retain in its fund, or in an interest bearing account, or retain in escrow, at the option of the contractor, an amount equal to such unpaid taxes and unpaid claims together with a sum sufficient to defray the costs and attorney fees incurred in foreclosing the lien of such claims, and shall pay, or release from escrow, the remainder to the contractor. [2009 c 432 § 6; 2007 c 218 § 94; 1992 c 223 § 3.]

Report—2009 c 432: See RCW 18.27.800.

Intent—Finding—2007 c 218: See note following RCW 1.08.130.

Additional notes found at www.leg.wa.gov

60.28.030 Foreclosure of lien—Limitation of action—Release of funds.

Any person, firm, or corporation filing a claim against the reserve fund shall have four months from the time of the filing thereof in which to bring an action to foreclose the lien. The lien shall be enforced by action in the superior court of the county where filed, and shall be governed by the laws regulating the proceedings in civil actions touching the mode and manner of trial and the proceedings and laws to secure property so as to hold it for the satisfaction of any lien against it: PROVIDED, That the public body shall not be required to make any detailed answer to any complaint or other pleading but need only certify to the court the name of the contractor; the work contracted to be done; the date of the contract; the date of completion and final acceptance of the work; the amount retained; the amount of taxes certified due or to become due to the state; and all claims filed with it showing respectively the dates of filing, the names of claimants, and amounts claimed. Such certification shall operate to arrest payment of so much of the funds retained as is required to discharge the taxes certified due or to become due and the claims filed in accordance with this chapter. In any action brought to enforce the lien, the claimant, if he or she prevails, is entitled to recover, in addition to all other costs, attorney fees in such sum as the court finds reasonable. If a claimant fails to bring action to foreclose his or her lien within the four months period, the reserve fund shall be discharged from the lien of his or her claim and the funds shall be paid to the contractor. The four months limitation shall not, however, be construed as a limitation upon the right to sue the contractor or his or her surety where no right of foreclosure is sought against the fund. [2012 c 117 § 146; 1979 ex.s. c 38 § 1; 1955 c 236 § 3; 1927 c 241 § 1; 1921 c 166 § 3; RRS § 10322.]

60.28.040 Tax liens—Priority of liens. (1) Subject to subsection (5) of this section, the amount of all taxes, increases, and penalties due or to become due under Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is thirty-five thousand dollars or

more, is a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(2) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is thirty-five thousand dollars or more, the amount of all other taxes, increases, and penalties under Title 82 RCW, due and owing from the contractor, is a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(3) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, the amount of all taxes, increases, and penalties due or to become due under Titles 50 and 51 RCW from the contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is thirty-five thousand dollars or more is a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(4) Subject to subsection (5) of this section, the amount of all other taxes, increases, and penalties due and owing from the contractor is a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.

(5) The employees of a contractor or the contractor's successors or assignees who have not been paid the prevailing wage under such a public improvement contract shall have a first priority lien against the bond or retainage prior to all other liens. [2014 c 97 § 301. Prior: 2009 c 432 § 7; 2009 c 219 § 7; 1985 c 80 § 1; 1971 ex.s. c 299 § 1; 1955 c 236 § 4; prior: 1949 c 228 § 27, part; Rem. Supp. 1949 § 8370-204a, part; RCW 82.32.250, part.]

Report—2009 c 432: See RCW 18.27.800.

Additional notes found at www.leg.wa.gov

60.28.051 Duties of disbursing officer upon completion of contract. Upon completion of a contract, the state, county, or other municipal officer charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue, the employment security department, and the department of labor and industries of the completion of contracts over thirty-five thousand dollars. Such officer shall not make any payment from the retained percentage fund or release any retained percentage escrow account to any person, until he or she has received from the department of revenue, the employment security department, and the department of labor and industries certificates that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in each department's opinion, readily collectible without recourse to the state's lien on the retained percentage. [2009 c 432 § 8; 2007 c 210 § 2; 1992 c 223 § 4.]

Report—2009 c 432: See RCW 18.27.800.

Additional notes found at www.leg.wa.gov

60.28.060 Duties of disbursing officer upon final acceptance of contract—Request of payment of taxes, increases, penalties, and claims. If within thirty days after receipt of notice by the department of revenue, the employment security department, and the department of labor and industries of the completion of the contract, the amount of all taxes, increases, and penalties due from the contractor or any of his or her successors or assignees or to become due with respect to such contract have not been paid, the department of revenue, the employment security department, and the department of labor and industries may certify to the disbursing officer the amount of all taxes, increases, and penalties due from the contractor, together with the amount of all taxes due and to become due with respect to the contract and may request payment thereof in accordance with the priority provided by this chapter. The disbursing officer shall within ten days after receipt of such certificate and request pay to the department of revenue, the employment security department, and the department of labor and industries the amount of all taxes, increases, and penalties certified to be due or to become due and all claims which by statute are a lien upon the retained percentage withheld by the disbursing officer in accordance with the priority provided by this chapter. If the contractor owes no taxes imposed pursuant to Titles 50, 51, and 82 RCW, the department of revenue, the employment security department, and the department of labor and industries shall so certify to the disbursing officer. [2012 c 117 § 147; 2009 c 432 § 9; 1967 ex.s. c 26 § 25; 1955 c 236 § 6. Prior: 1949 c 228 § 27, part; Rem. Supp. 1949 § 8370-204a, part; RCW 82.32.250, part.]

Report—2009 c 432: See RCW 18.27.800.

Additional notes found at www.leg.wa.gov

60.28.080 Delay due to litigation—Change order or force account directive—Costs—Arbitration—Termination. (1) If any delay in issuance of notice to proceed or in construction following an award of any public construction contract is primarily caused by acts or omissions of persons or agencies other than the contractor and a preliminary, special or permanent restraining order of a court of competent jurisdiction is issued pursuant to litigation and the appropriate public contracting body does not elect to delete the completion of the contract as provided by RCW 60.28.011(7), the appropriate contracting body will issue a change order or force account directive to cover reasonable costs incurred by the contractor as a result of such delay. These costs shall include but not be limited to contractor's costs for wages, labor costs other than wages, wage taxes, materials, equipment rentals, insurance, bonds, professional fees, and sub-contracts, attributable to such delay plus a reasonable sum for overhead and profit.

In the event of a dispute between the contracting body and the contractor, arbitration procedures may be commenced under the applicable terms of the construction contract, or, if the contract contains no such provision for arbitration, under the then obtaining rules of the American Arbitration Association.

If the delay caused by litigation exceeds six months, the contractor may then elect to terminate the contract and to delete the completion of the contract and receive payment in proportion to the amount of the work completed plus the cost

of the delay. Amounts retained and accumulated under RCW 60.28.011 shall be held for a period of forty-five days following the election of the contractor to terminate. Election not to terminate the contract by the contractor shall not affect the accumulation of costs incurred as a result of the delay provided above.

(2) This section shall not apply to any contract awarded pursuant to an invitation for bid issued on or before July 16, 1973. [2009 c 219 § 8; 1982 c 170 § 3; 1973 1st ex.s. c 62 § 3.]

Change orders due to environmental protection requirements, costs: RCW 39.04.120.

Additional notes found at www.leg.wa.gov

Chapter 60.32 RCW

LABOR LIENS ON FRANCHISES, EARNINGS, AND PROPERTY OF CERTAIN COMPANIES

Sections

60.32.010	Liens authorized.
60.32.020	Notice of lien—Contents—Filing and serving.
60.32.030	Manner of serving notice.
60.32.040	Manner of enforcing liens.
60.32.050	Receiver or assignee to pay claims first.

60.32.010 Liens authorized. Every person performing labor for any person, company, or corporation, in the operation of any railway, canal, or transportation company, or any water, mining, or manufacturing company, sawmill, lumber or timber company, shall have a prior lien on the franchise, earnings, and on all the real and personal property of said person, company, or corporation, which is used in the operation of its business, to the extent of the moneys due him or her from such person, company, or corporation, operating said franchise or business, for labor performed within six months next preceding the filing of his or her claim therefor, as hereinafter provided; and no mortgage, deed of trust, or conveyance shall defeat or take precedence over said lien. [2012 c 117 § 148; 1897 c 43 § 1; RRS § 1149.]

60.32.020 Notice of lien—Contents—Filing and serving. No person shall be entitled to the lien given by RCW 60.32.010, unless he or she shall, within ninety days after he or she has ceased to perform labor for such person, company, or corporation, filed for record with the county auditor of the county in which said labor was performed, or in which is located the principal office of such person, company, or corporation in this state, a notice of claim, containing a statement of his or her demand, after deducting all just credits and offsets, the name of the person, company, or corporation, and the name of the person or persons employing claimant, if known, with the statement of the terms and conditions of his or her contract, if any, and the time he or she commenced the employment, and the date of his or her last service, and shall serve a copy thereof on said person, company, or corporation within thirty days after the same is so filed for record.

Any number of claimants may join in the same notice for the purpose of filing and enforcing their liens, but the amount claimed by each claimant shall be separately stated. [2012 c 117 § 149; 1977 ex.s. c 176 § 1; 1897 c 43 § 2; RRS § 1150.]

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60.32.030 Manner of serving notice. Service of notice, as herein required, may be made in the same manner as summons in civil actions. [1897 c 43 § 3; RRS § 1151.]

Service of summons in civil actions: RCW 4.28.080.

60.32.040 Manner of enforcing liens. Any such lien may be enforced within the same time and in the same manner as mechanics' liens are foreclosed. [1897 c 43 § 4; RRS § 1152.]

60.32.050 Receiver or assignee to pay claims first. Whenever a receiver or assignee is appointed for any person, company or corporation, the court shall require such receiver or assignee to pay all claims for which a lien could be filed under this chapter, before the payment of any other debts or claims, other than operating expenses. [1897 c 43 § 5; RRS § 1153.]

Chapter 60.34 RCW

LIEN OF RESTAURANT, HOTEL, TAVERN, ETC., EMPLOYEES

Sections

60.34.010	Liens authorized.
60.34.020	Notice of lien—Contents—Filing and serving.
60.34.030	Manner of serving notice.
60.34.040	Manner of enforcing liens—Costs.
60.34.050	Priority of lien.

60.34.010 Liens authorized. Every person performing labor in the operation of any restaurant, hotel, tavern, or other place of business engaged in the selling of prepared foods or drinks, or any hotel service employee, shall have a lien on the earnings and on all the property of his or her employer used in the operation of said business to the extent of the moneys due him or her for labor performed within three months next preceding the filing of his or her claim therefor. [2012 c 117 § 150; 1953 c 205 § 1.]

60.34.020 Notice of lien—Contents—Filing and serving. The lien claimant shall within thirty days after he or she has ceased to perform such labor, file for record with the auditor of the county in which the labor was performed a notice of claim, containing a statement of his or her demand, the name of the employer and the name of the person employing him or her, if known, with a statement of the terms and conditions of his or her contract, if any, and the time he or she commenced the employment, and the date of his or her last service, and shall serve or mail a copy thereof to said employer within said period. [2012 c 117 § 151; 1953 c 205 § 2.]

60.34.030 Manner of serving notice. Service of the notice of claim may be made in the same manner as summons in civil actions. [1953 c 205 § 3.]

Service of summons in civil actions: RCW 4.28.080.

60.34.040 Manner of enforcing liens—Costs. The lien may be enforced within the same time and in the same manner as mechanics' liens are foreclosed, when said lien is upon real property, or in the same manner as provided in chapter 60.10 RCW when the lien is upon personal property. The

court may allow as part of the costs of the action the money paid for filing or recording the claim and a reasonable attorney fee. [1995 c 62 § 8; 1969 c 82 § 12; 1959 c 173 § 1; 1953 c 205 § 4.]

60.34.050 Priority of lien. The lien created herein shall be preferred to any encumbrance which may attach after the commencement of the labor and is also preferred to any encumbrance which may have attached previously to that time, but which was not filed or recorded so as to create constructive notice thereof prior to that time, and of which the lien claimant had no notice. [1953 c 205 § 5.]

Chapter 60.36 RCW

LIEN ON VESSELS AND EQUIPMENT

Sections

60.36.010	Liens created.
60.36.020	Actions to enforce liens.
60.36.030	Liens for handling cargo.
60.36.040	Liens for handling cargo—Priority.
60.36.050	Liens for handling cargo—Foreclosure.
60.36.060	Lien for breach of contract for towing, dunnaging, stevedoring, etc.

60.36.010 Liens created. All steamers, vessels and boats, their tackle, apparel and furniture, are liable—

(1) For service rendered on board at the request of, or under contract with their respective owners, charterers, masters, agents or consignees.

(2) For work done or material furnished in this state for their construction, repair or equipment at the request of their respective owners, charterers, masters, agents, consignees, contractors, subcontractors, or other person or persons having charge in whole or in part of their construction, alteration, repair or equipment; and every contractor, builder or person having charge, either in whole or in part, of the construction, alteration, repair or equipment of any steamer, vessel or boat, shall be held to be the agent of the owner for the purposes of RCW 60.36.010 and 60.36.020, and for supplies furnished in this state for their use, at the request of their respective owners, charterers, masters, agents or consignees, and any person having charge, either in whole or in part, of the purchasing of supplies for the use of any such steamer, vessel or boat, shall be held to be the agent of the owner for the purposes of RCW 60.36.010 and 60.36.020.

(3) For their wharfage and anchorage within this state.

(4) For nonperformance or malperformance of any contract for the transportation of persons or property between places within this state, or to or from places within this state, made by their respective owners, masters, agents or consignees.

(5) For injuries committed by them to persons or property within this state, or while transporting such persons or property to or from this state. Demands for these several causes constitute liens upon all steamers, vessels and boats, and their tackle, apparel and furniture, and have priority in the order of the subdivisions hereinbefore enumerated, and have preference over all other demands; but such liens continue in force only for a period of three years from the time the cause of action accrued. [1901 c 24 § 1; Code 1881 § 1939; 1877 p 216 § 1; RRS § 1182. Prior: 1858 p 29 § 1.]

Lien of pilot for pilotage compensation: RCW 88.16.140.

60.36.020 Actions to enforce liens. Such liens may be enforced, in all cases of maritime contracts or service, by a suit in admiralty, in rem, and the law regulating proceedings in admiralty shall govern in all such suits; and in all cases of contracts or service not maritime, by a civil action in any superior court of this state as provided in RCW 60.10.023. [1995 c 62 § 9; 1969 c 82 § 19; Code 1881 § 1940; 1877 p 216 § 2; RRS § 1183.]

60.36.030 Liens for handling cargo. All steamers, vessels, and boats, their tackle, apparel, and furniture shall be held liable at all ports and places within this state or within the jurisdiction of the courts of this state or within the jurisdiction of the courts of the United States in said state for services rendered by stevedores, longshore workers, or others engaged in the loading, unloading, stowing, or dunnaging of cargo in or from any steamer, vessel, or boat in any harbor or at any other place within said state, or within the jurisdiction of the courts thereof as above stated, and said steamers, vessels, and boats shall further be liable as per their contracts for all services performed upon wharfs or landing places by stevedores, longshore workers, or others: PROVIDED, That such services must have been so performed in and about and be connected with the loading, unloading, dunnaging, or stowing of said cargo. [2013 c 23 § 123; 1901 c 75 § 1; RRS § 1184.]

60.36.040 Liens for handling cargo—Priority. Demands for wages and all sums due under contracts or otherwise for the performance of all or any of the services mentioned in RCW 60.36.030 shall constitute liens upon all steamers, vessels, and boats, their tackle, apparel, and furniture, and shall have priority over all other demands save and excepting the demands mentioned in RCW 60.36.010 (1), (2), and (3), to which said demands the lien hereby provided shall be subordinate: PROVIDED, That such liens shall only continue in force for the period of three years from the date when such work was done or the last services performed by such stevedores, longshore workers, or others. [2013 c 23 § 124; 1901 c 75 § 2; RRS § 1185.]

60.36.050 Liens for handling cargo—Foreclosure. The liens hereby created may be foreclosed as provided in RCW 60.10.023. [1995 c 62 § 10; 1969 c 82 § 13; 1901 c 75 § 3; RRS § 1186.]

60.36.060 Lien for breach of contract for towing, dunnaging, stevedoring, etc. Whenever the owner, charterer, or any person or corporation operating, managing or controlling any steamship, vessel or boat shall wilfully fail, neglect or refuse to carry out or perform any express contract or portion thereof for the towing, loading, unloading, dunnaging or stevedoring of such steamship, vessel or boat, any person or persons, firm or corporation sustaining thereby any loss or damage which is capable of definite ascertainment shall have a lien upon such steamship, vessel or boat for said loss or damage. The rank and priority of the lien hereby created and the manner of its enforcement shall be fixed, controlled and regulated by the provisions of the existing law

pertaining to liens for similar services already performed. [1903 c 149 § 1; RRS § 1187.]

Chapter 60.40 RCW LIEN FOR ATTORNEY'S FEES

Sections

- 60.40.010 Lien created—Enforcement—Definition—Exception.
60.40.020 Proceedings to compel delivery of money or papers.
60.40.030 Procedure when lien is claimed.

Rules of court: Return of files of disbarred or suspended attorney—RLD 8.1.

60.40.010 Lien created—Enforcement—Definition—Exception. (1) An attorney has a lien for his or her compensation, whether specially agreed upon or implied, as hereinafter provided:

(a) Upon the papers of the client, which have come into the attorney's possession in the course of his or her professional employment;

(b) Upon money in the attorney's hands belonging to the client;

(c) Upon money in the hands of the adverse party in an action or proceeding, in which the attorney was employed, from the time of giving notice of the lien to that party;

(d) Upon an action, including one pursued by arbitration or mediation, and its proceeds after the commencement thereof to the extent of the value of any services performed by the attorney in the action, or if the services were rendered under a special agreement, for the sum due under such agreement; and

(e) Upon a judgment to the extent of the value of any services performed by the attorney in the action, or if the services were rendered under a special agreement, for the sum due under such agreement, from the time of filing notice of such lien or claim with the clerk of the court in which such judgment is entered, which notice must be filed with the papers in the action in which such judgment was rendered, and an entry made in the execution docket, showing name of claimant, amount claimed and date of filing notice.

(2) Attorneys have the same right and power over actions to enforce their liens under subsection (1)(d) of this section and over judgments to enforce their liens under subsection (1)(e) of this section as their clients have for the amount due thereon to them.

(3) The lien created by subsection (1)(d) of this section upon an action and proceeds and the lien created by subsection (1)(e) of this section upon a judgment for money is superior to all other liens.

(4) The lien created by subsection (1)(d) of this section is not affected by settlement between the parties to the action until the lien of the attorney for fees based thereon is satisfied in full.

(5) For the purposes of this section, "proceeds" means any monetary sum received in the action. Once proceeds come into the possession of a client, such as through payment by an opposing party or another person or by distribution from the attorney's trust account or registry of the court, the term "proceeds" is limited to identifiable cash proceeds determined in accordance with RCW 62A.9A-315(b)(2). The attorney's lien continues in such identifiable cash proceeds,

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subject to the rights of a secured party under RCW 62A.9A-327 or a transferee under RCW 62A.9A-332.

(6) Child support liens are exempt from this section. [2004 c 73 § 2; Code 1881 § 3286; 1863 p 406 § 12; RRS § 136.]

Purpose—Intent—Application—2004 c 73: "The purpose of this act is to end double taxation of attorneys' fees obtained through judgments and settlements, whether paid by the client from the recovery or by the defendant pursuant to a statute or a contract. Through this legislation, Washington law clearly recognizes that attorneys have a property interest in their clients' cases so that the attorney's fee portion of an award or settlement may be taxed only once and against the attorney who actually receives the fee. This statute should be liberally construed to effectuate its purpose. This act is curative and remedial, and intended to ensure that Washington residents do not incur double taxation on attorneys' fees received in litigation and owed to their attorneys. Thus, except for RCW 60.40.010(4), the statute is intended to apply retroactively." [2004 c 73 § 1.]

60.40.020 Proceedings to compel delivery of money or papers. When an attorney refuses to deliver over money or papers, to a person from or for whom he or she has received them in the course of professional employment, whether in an action or not, he or she may be required by an order of the court in which an action, if any, was prosecuted, or if no action was prosecuted, then by order of any judge of a court of record, to do so within a specified time, or show cause why he or she should not be punished for a contempt. [2012 c 117 § 152; Code 1881 § 3287; 1863 p 406 § 13; RRS § 137.]

60.40.030 Procedure when lien is claimed. If, however, the attorney claim a lien, upon the money or papers, under the provisions of *this chapter, the court or judge may: (1) Impose as a condition of making the order, that the client give security in a form and amount to be directed, to satisfy the lien, when determined in an action; (2) summarily to inquire into the facts on which the claim of a lien is founded, and determine the same; or (3) to refer it, and upon the report, determine the same as in other cases. [Code 1881 § 3288; 1863 p 406 § 14; RRS § 138.]

*Reviser's note: "this chapter" appeared in section 3288, chapter 250 of the Code of 1881, the lien sections of which are codified as chapter 60.40 RCW.

Chapter 60.42 RCW COMMERCIAL REAL ESTATE BROKER LIEN ACT

Sections

- 60.42.005 Definitions.
60.42.010 Lien upon personal property—Effective date—Notice of claim of lien—Waiver of lien rights—Court costs, attorneys' fees, and statutory interest.
60.42.020 Disputed claim—Order to show cause—Hearing.
60.42.030 Lien on net rental proceeds—Order to show cause—Hearing.
60.42.040 Priority of lien claims.
60.42.050 Deposit made pending resolution of amounts due—Recording of receipt—Release of notice of claim of lien.
60.42.060 County auditor or recorder—Duties—Fees.
60.42.070 Delivery of notice of claim of lien—Form—Time effective—Address.
60.42.900 Application.
60.42.901 Short title.

60.42.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial real estate" means a fee title interest or possessory estate in real property located in this state except an interest in real property which is (a) improved with one single-family residential unit or one multifamily structure with four or less residential units, or (b) unimproved and the maximum permitted development is one to four residential units or structures under the county or city zoning ordinances or comprehensive plan applicable to that real estate, or (c) classified as farm and agricultural land or timberland for assessment purposes pursuant to chapter 84.34 RCW, or (d) improved with single-family residential units such as condominiums, townhouses, timeshares, or stand-alone houses in a subdivision that may be legally sold, leased, or otherwise disposed of on a unit-by-unit basis. Real estate will be considered commercial real estate if the commission agreement so provides, or if it meets the definition contained in this section on the date of the disposition.

(2) "Commission agreement" means a written instrument which meets the requirements of RCW 19.36.010 signed by the owner, or by a party duly authorized to sign on behalf of the owner, of commercial real estate, pursuant to which the owner agrees to pay a broker a real estate commission upon either the disposition or lease of commercial real estate or upon entering into an agreement for disposition or lease of commercial real estate. When a broker and owner execute multiple versions of a commission agreement regarding the same disposition of commercial real estate, the final written version of the commission agreement, which incorporates the final agreement between the broker and the owner, constitutes the "commission agreement" and shall be used to determine the amount of the lien created by this chapter.

(3) "Days" means calendar days. However, if a period ends on a day other than a business day, then the last day shall be the next business day.

(4) "Disposition" means a voluntary transfer or conveyance of commercial real estate.

(5) "Escrow closing agent" means the person or entity who receives documents and funds for recording and disbursement in completing a transaction for the disposition of commercial real estate.

(6) "Lease" means a written agreement which gives rise to a relationship of landlord and tenant, affecting commercial real estate, such that the holder of a fee simple interest or possessory estate in commercial real estate permits another to possess the commercial real estate for a period, and which meets the requirements of RCW 19.36.010, if applicable.

(7) "Net rental proceeds" means the base rent paid by the tenant under a lease, less any amounts currently due under the terms of liens which have priority over the lien created under this chapter. Base rent is the rent so designated in a lease as base rent, or a similar term, for the possession and use of the commercial real estate, but does not include separate payments made by tenants for insurance, taxes, utilities, or other expenses.

(8) "Owner" means a person or entity which is vested in record fee title or a possessory estate in commercial real estate.

(9)(a) "Owner's net proceeds" means the gross sales proceeds from the disposition of the commercial real estate described in a notice of claim of lien against proceeds pursuant to this chapter, less the following: (i) Amounts necessary

to pay all encumbrances and liens which have priority over the lien created by this chapter other than those permitted to remain by the buyer; (ii) owner's closing costs, such as real estate excise tax, title insurance premiums, real estate tax and assessment proration, and escrow fees payable by the owner pursuant to an agreement with the buyer; and (iii) amounts held by a third party for use by the owner to complete an exchange of real estate which is deferred from federal income tax under section 1031 of the internal revenue code of 1986, as amended.

(b) "Owner's net proceeds" shall include any gross sales proceeds which are held by a third party for purposes of completing an exchange of real estate which is deferred from federal income tax under section 1031 of the internal revenue code of 1986, as amended, but are subsequently not used for that purpose. "Owner's net proceeds" are personal property, upon which the lien created by this chapter attaches.

(10) "Real estate broker" or "broker" means the same as defined in *RCW 18.85.010.

(11) "Real property" means one or more parcels or tracts of land, including appurtenances or improvements. [1997 c 315 § 1.]

*Reviser's note: RCW 18.85.010 was recodified as RCW 18.85.011 pursuant to 2008 c 23 § 49, effective July 1, 2010.

60.42.010 Lien upon personal property—Effective date—Notice of claim of lien—Waiver of lien rights—Court costs, attorneys' fees, and statutory interest. (1) The lien created under this chapter is a lien upon personal property, not upon real property.

(2) A broker has a lien upon the owner's net proceeds from the disposition of commercial real estate and a lien upon the net rental proceeds from the lease of commercial real estate in the amount which the owner has agreed to pay the broker under a commission agreement. The lien under this chapter is available only to the broker named in the commission agreement, and may not be assigned voluntarily or by operation of law.

(3) Subject to the requirements of subsection (4) of this section, the lien created by this chapter becomes effective on the date of the recording of a notice of claim of lien upon proceeds pursuant to subsection (6) of this section, and is perfected by such recording. Recording must be made with the county auditor or recorder in the county or counties in which the commercial real estate is located.

(4) In the case of a disposition of commercial real estate, the lien under this chapter is not effective unless it is recorded at least thirty days prior to the date a deed conveying the commercial real estate is recorded in the office of the county auditor or recorder in the county or counties in which the commercial real estate is located. In the case of a lease of commercial real estate, the lien under this chapter is not effective unless it is recorded within ninety days after the tenant takes possession of the leased commercial real estate.

(5) The lien created by this chapter is null and void unless, within ten days of recording its notice of claim of lien against proceeds, the broker delivers a copy of the notice of claim of lien against proceeds to the owner of the commercial real estate in the manner provided in RCW 60.42.070. In the case of the disposition of commercial real estate, on or before the date the deed conveying the commercial real estate is

recorded, the broker shall deliver a copy of the notice of claim of lien against proceeds to the escrow closing agent closing the disposition in the manner provided in RCW 60.42.070, if the identity of the escrow closing agent is actually known by the broker.

(6) To be effective, the notice of claim of lien against proceeds must state the following:

- (a) The name, address, and telephone number of the broker;
- (b) The date of the commission agreement;
- (c) The name of the owner of the commercial real estate;
- (d) The legal description of the commercial real estate as described in the commission agreement;
- (e) The amount for which the lien is claimed, which may be stated in a dollar amount or may be stated in the form of a formula for how the amount is to be determined such as a percentage of the sales price;
- (f) The real estate license number of the broker; and
- (g) That the lien claimant has read the claim, knows the contents, and believes the same to be true and correct, and that the claim is made pursuant to a valid commission agreement, and is not frivolous, under penalties of perjury.

A copy of the commission agreement must be attached to the recorded notice of claim of lien against proceeds. The notice of claim of lien against proceeds must recite that the information contained in the notice of claim of lien against proceeds is true and accurate to the knowledge of the signatory. The notice of claim of lien against proceeds must be acknowledged pursuant to chapter 64.08 RCW. A notice of claim of lien against proceeds substantially in the following form is sufficient:

NOTICE OF CLAIM OF LIEN AGAINST PROCEEDS PURSUANT TO CHAPTER 60.42 RCW

Notice is hereby given that the person named below claims a lien as to owner's net proceeds or net rental proceeds, but not real property, pursuant to chapter 60.42 RCW. In support of this lien, the following information is submitted:

- 1. Name, telephone number, and address of lien claimant:
- 2. Washington state broker's license number of lien claimant:
- 3. Date of the written commission agreement on which this claim is based:, a true and complete copy of which is attached to this notice of claim of lien.
- 4. Name of the owner:
- 5. Legal description of the commercial real estate described in the commission agreement:
- 6. The amount for which the lien is claimed, which may be stated in a dollar amount or may be stated in the form of a formula for how the amount is to be determined such as a percentage of the sales price:
- 7. The undersigned lien claimant, being sworn, states: I have read the foregoing claim, know the contents, and believe the same to be true and correct, and the claim is made pursuant to a valid commission agreement, and is not frivolous, under penalty of perjury.

.....
Signature of lien claimant
.....
Name, Street Address, City, State
of person signing
.....
Telephone Number of person signing

State of Washington)
) ss
County of)
.....
Subscribed and sworn to, or affirmed, before me on
... by
.....
Signature
(Seal or stamp)
Title
My appointment expires

(Add acknowledgment pursuant to chapter 64.08 RCW)

(7) Whenever a notice of claim of lien against proceeds is recorded and a condition or event occurs, or fails to occur, that would preclude the broker from receiving compensation under the terms of the commission agreement, including the filing of a notice of claim of lien against proceeds in a manner which does not comply with this chapter, the broker shall record, within seven days following demand by the owner, a written release of the notice of claim of lien against proceeds.

(8) Whenever the amount claimed in a notice of claim of lien against proceeds is paid to the lien claimant, the lien claimant shall promptly record a satisfaction or release of the notice of claim of lien against proceeds on written demand of the owner no later than five days after receipt of payment. In the case of a disposition of commercial real estate, the escrow closing agent is required to pay to the lien claimant the owner's net proceeds up to the amount claimed in the notice of claim of lien against proceeds. If the amount claimed in the notice of claim of lien against proceeds is to be fully or partially paid to the lien claimant by the escrow closing agent, upon such disposition, then the lien claimant shall submit a release of the notice of claim of lien against proceeds in the amount of the owner's net proceeds or the amount of the lien, whichever is smaller, to the escrow closing agent to be held in escrow pending such disposition and payment. In a suit brought by the owner to compel delivery of the release by the lien claimant, if the court determines that the delay was unjustified, the court shall, in addition to ordering the release of the notice of claim of lien, award the costs of the action including reasonable attorneys' fees to the prevailing party.

(9) An owner of commercial real estate may request that a broker waive the rights to a lien under this chapter, and such a waiver contained in the commission agreement signed by the broker is effective to waive the broker's rights to a lien under this chapter. In a suit filed by a broker to recover amounts due under a commission agreement in which the

broker has waived lien rights under this chapter, if the court finds that payment is due to the broker under the commission agreement, the court, in addition to awarding normal damages, shall award to the broker court costs, reasonable attorneys' fees, and statutory interest, as provided in RCW 19.52.010, from the date the deed is recorded in the event of a disposition, or from the date the tenant takes possession in the event of a lease. [1997 c 315 § 2.]

60.42.020 Disputed claim—Order to show cause—

Hearing. (1) An owner of commercial real estate subject to a recorded notice of claim of lien against proceeds under this chapter, who disputes the broker's claim in the notice of claim of lien against proceeds, may apply by motion to the superior court for the county where the commercial real estate, or some part thereof, is located for an order directing the broker to appear before the court at a time no earlier than seven nor later than fifteen days following the date of service of the motion and order on the broker, to show cause as to why the relief requested should not be granted. The motion must state the grounds upon which relief is asked and must be supported by the affidavit of the owner setting forth a concise statement of the facts upon which the motion is based.

(2) The order to show cause must clearly state that if the broker fails to appear at the time and place noted, the notice of claim of lien against proceeds must be released, with prejudice, and the broker must be ordered to pay the costs requested by the owner, including reasonable attorneys' fees.

(3) If, following a hearing on the matter, the court determines that the owner is not a party to an agreement which will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order releasing the notice of claim of lien against proceeds and awarding costs and reasonable attorneys' fees to the owner to be paid by the broker. If the court determines that the owner is a party to an agreement which will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the broker, to be paid by the owner. Such orders are final judgments.

(4) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise. [1997 c 315 § 3.]

60.42.030 Lien on net rental proceeds—Order to

show cause—Hearing. (1) If a broker has a lien on net rental proceeds pursuant to RCW 60.42.010(2), and the broker has recorded a notice of claim of lien against proceeds and otherwise complied with the requirements of this chapter, the broker may apply by motion to the superior court for the county where the commercial real estate, or some part thereof, is located, for an order directing the owner to appear before the court at a time no earlier than seven nor later than fifteen days following the date of service of the motion and order on the owner, and show cause as to why the relief requested should not be granted. The motion must state the grounds upon which relief is asked, and must be supported by the affidavit of the broker setting forth a concise statement of the facts upon which the motion is based.

(2) The order to show cause must clearly state that if the owner fails to appear at the time and place noted, the broker shall be entitled to an order enjoining the owner from paying the net rental proceeds from such lease to any party other than the broker, and that the owner shall be ordered to pay the costs requested by the broker, including reasonable attorneys' fees.

(3) If, following a hearing on the matter, the court determines that the owner is, or was, a party to an agreement for the lease of commercial real estate, which did or will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order enjoining the owner from paying the net rental proceeds from such lease to any party other than the broker. The court shall also order the owner to pay such net rental proceeds to the broker and award costs and reasonable attorneys' fees to the broker, to be paid by the owner. If the court determines that the owner is not, or was not, a party to an agreement for the lease of commercial real estate, which did or will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the owner, to be paid by the broker. Such orders are final judgments.

(4) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise. [1997 c 315 § 4.]

60.42.040 Priority of lien claims. All statutory liens, consensual liens, mortgages, deeds of trust, assignments of rents, and other encumbrances, including all advances or charges made or accruing thereunder, whether voluntary or obligatory, and all modifications, extensions, renewals, and replacements thereof, recorded prior to the recording of a notice of claim of lien against proceeds have priority over a lien created under this chapter. A prior recorded lien includes, without limitation, a valid material supplier's or mechanic's lien claim that is recorded after the recording of the broker's notice of claim of lien against proceeds but which relates back to a date prior to the recording date of the broker's notice of claim of lien against proceeds. [2013 c 23 § 125; 1997 c 315 § 5.]

60.42.050 Deposit made pending resolution of amounts due—Recording of receipt—Release of notice of claim of lien.

A notice of claim of lien against proceeds recorded under this chapter must be released without further act, upon the recording of a receipt showing the deposit with the superior court of the county in which the commercial real estate, or some part thereof, is located, of an amount equal to one and one-quarter times the amount of the lien claimed. The receipt shall be recorded in the office in which the notice of claim was recorded. The amount of the deposit in the superior court shall be held pending a resolution of amounts due to the broker and the owner. [1997 c 315 § 6.]

60.42.060 County auditor or recorder—Duties—

Fees. The county auditor or recorder shall record the notice of claim of lien against proceeds, and any release thereof, in the same manner as deeds and other instruments of title are recorded under chapter 65.08 RCW. Notices of claim of lien

against proceeds for registered land need not be recorded in the Torrens register. The county auditor or recorder may not charge a higher fee for recording a notice of claim of lien against proceeds, or for a release thereof, than what the county auditor or recorder charges for other documents. [1997 c 315 § 7.]

60.42.070 Delivery of notice of claim of lien—Form—Time effective—Address. Notices to be delivered to a party under this chapter, other than service of process as required in civil actions, shall be by service of process, or by registered or certified mail, return receipt requested, or by personal or electronic delivery and obtaining evidence of delivery in the form of a receipt or other paper or electronic acknowledgment by the party to whom the notice is delivered or an affidavit of service. Delivery is effective at the time of personal service, or personal or electronic delivery, or three days following deposit in the mail as required by this section. Notice to a broker or owner may be given to the address of the broker or owner that is contained in the commission agreement, or such other address as is contained in a written notice from the broker or owner to the party giving the notice. If no address is provided in the commission agreement, the notice to the broker may be given to the broker's address of record with the department of licensing pursuant to chapter 18.85 RCW and notice to the owner may be given to the address of the commercial real estate. [1997 c 315 § 8.]

60.42.900 Application. This chapter applies to lien claims based on a commission agreement entered into on, or after, July 27, 1997. [1997 c 315 § 9.]

60.42.901 Short title. This chapter may be known and cited as the commercial real estate broker lien act. [1997 c 315 § 10.]

Chapter 60.44 RCW

LIEN OF DOCTORS, NURSES, HOSPITALS, AMBULANCE SERVICES

Sections

60.44.010	Liens authorized.
60.44.020	Person entitled to lien under RCW 60.44.010—Notice of lien—Contents—Filing.
60.44.030	Record of claims.
60.44.040	Taking note—Effect on lien.
60.44.050	Settlement of damages—Effect on lien.
60.44.060	Enforcement of lien—Payment as evidence—Release of lien.

Lien of department of social and health services for medical care of injured recipient, payment of tortfeasor or tortfeasor's insurer does not discharge lien: RCW 74.09.180, 43.20B.040, and 43.20B.050.

Lien on funds withheld by employer from employee's pay: RCW 49.52.030 and 49.52.040.

60.44.010 Liens authorized. Every operator, whether private or public, of an ambulance service or of a hospital, and every duly licensed nurse, practitioner, physician, and surgeon rendering service, or transportation and care, for any person who has received a traumatic injury and which is rendered by reason thereof shall have a lien upon any claim, right of action, and/or money to which such person is entitled against any tort-feasor and/or insurer of such tort-feasor for the value of such service, together with costs and such rea-

sonable attorney's fees as the court may allow, incurred in enforcing such lien: PROVIDED, HOWEVER, That nothing in this chapter shall apply to any claim, right of action, or money accruing under the workers' compensation act of the state of Washington, and: PROVIDED, FURTHER, That all the said liens for service rendered to any one person as a result of any one accident or event shall not exceed twenty-five percent of the amount of an award, verdict, report, decision, decree, judgment, or settlement. [1987 c 185 § 36; 1975 1st ex.s. c 250 § 1; 1937 c 69 § 1; RRS § 1209-1.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

60.44.020 Person entitled to lien under RCW 60.44.010—Notice of lien—Contents—Filing. No person shall be entitled to the lien given by RCW 60.44.010 unless such person:

(1) In any effort to enforce the lien, either attempts to enforce the lien on his or her own behalf or designates a collection agency licensed under chapter 19.16 RCW to collect on his or her behalf;

(2) Discloses the person's use of liens under this chapter as part of the person's billing and collection practices; and

(3) Within twenty days after the date of such injury or receipt of transportation or care, or, if settlement has not been accomplished and payment made to such injured person, then at any time before such settlement and payment, files for record with the county auditor of the county in which said service was performed, a notice of claim stating the name and address of the person claiming the lien and whether such person claims as a practitioner, physician, nurse, ambulance service, or hospital, the name and address of the patient and place of domicile or residence, the time when and place where the alleged fault or negligence of the tort-feasor occurred, and the nature of the injury if any, the name and address of the tort-feasor, if same or any thereof are known, which claim shall be subscribed by the claimant and verified before a person authorized to administer oaths. [2015 c 201 § 1; 1975 1st ex.s. c 250 § 2; 1937 c 69 § 2; RRS § 1209-2.]

60.44.030 Record of claims. The county auditor shall record the claims mentioned in this chapter, which record must be indexed as deeds and other conveyances are required by law to be indexed. [1999 c 233 § 6; 1937 c 69 § 3; RRS § 1209-4.]

Additional notes found at www.leg.wa.gov

60.44.040 Taking note—Effect on lien. The taking of a promissory note or other evidence of indebtedness for any services performed, as provided in this chapter, shall not discharge the lien therefor unless expressly received as a payment for such services and so specified therein. [1937 c 69 § 4; RRS § 1209-4.]

60.44.050 Settlement of damages—Effect on lien. No settlement made by and between the patient and tortfeasor and/or insurer shall discharge the lien against any money due or owing by such tortfeasor or insurer to the patient or relieve the tortfeasor and/or insurer from liability by reason of such lien unless such settlement also provides for the payment and discharge of such lien or unless a written release or waiver of

any such claim of lien, signed by the claimant, be filed in the court where any action has been commenced on such claim, or in case no action has been commenced against the tortfeasor and/or insurer, then such written release or waiver shall be delivered to the tortfeasor and/or insurer. [1937 c 69 § 5; RRS § 1209-5.]

60.44.060 Enforcement of lien—Payment as evidence—Release of lien. (1) Such lien may be enforced by a suit at law brought by the claimant or his or her assignee within one year after the filing of such lien against the said tortfeasor and/or insurer. In the event that such tortfeasor and/or insurer shall have made payment or settlement on account of such injury, the fact of such payment shall only for the purpose of such suit be prima facie evidence of the negligence of the tortfeasor and of the liability of the payer to compensate for such negligence.

(2) No more than thirty days after payment or settlement and acceptance of the amount due to the claimant or his or her assignee, the claimant or his or her assignee shall prepare and execute a release of all lien rights for which payment has been made and deliver the release to the patient. In any suit to compel deliverance of the release thereafter in which the court determines the delay was unjustified, the court shall, in addition to ordering the deliverance of the release, award the costs of the action including reasonable attorneys' fees and any damages. [2015 c 201 § 2; 2012 c 117 § 153; 1937 c 69 § 6; RRS § 1209-6.]

Chapter 60.45 RCW

LIEN OF DEPARTMENT OF SOCIAL AND HEALTH SERVICES FOR MEDICAL CARE FURNISHED INJURED RECIPIENT

Sections

60.45.010 Medical care to injured recipient—Recovery of cost against tortfeasor or tortfeasor's insurer—Lien created, filing—Payment to recipient does not discharge lien.

60.45.010 Medical care to injured recipient—Recovery of cost against tortfeasor or tortfeasor's insurer—Lien created, filing—Payment to recipient does not discharge lien. See RCW 74.09.180, 43.20B.040, and 43.20B.050.

Chapter 60.52 RCW

LIEN FOR SERVICES OF SIRES

Sections

60.52.010 Liens authorized—Filing statement.
 60.52.020 Auditor's certificate—Contents—Posting.
 60.52.030 Statement of lien—Filing—Duration of lien.
 60.52.035 Delivery of semen by artificial insemination procedures—Lien upon female or offspring—No filing—Duration of lien—Statement of account.
 60.52.040 Foreclosure of lien.
 60.52.050 Auditor's fees.

60.52.010 Liens authorized—Filing statement. In order to secure to the owner or owners of sires payment for service, the following provisions are enacted: That every owner of a sire having a service fee, in order to have a lien upon the female served, and upon the get of any such sire,

under the provisions of this chapter, for such service, shall file for record with the county auditor of the county where said sire is kept for service a statement, verified by oath or affirmation, to the best of his or her knowledge and belief, giving the name, age, description, and pedigree, as well as the terms and conditions upon which such sire is advertised for service: PROVIDED, That owners of sires who are not in possession of pedigrees for such sires shall not be debarred from the benefits of this chapter. [2012 c 117 § 154; 1890 p 451 § 1; RRS § 3056.]

60.52.020 Auditor's certificate—Contents—Posting. The county auditor, upon the receipt of the statement as specified in RCW 60.52.010, duly verified by affidavit, shall issue a certificate to the owner or owners of said sire, which shall be posted by the owner in a conspicuous place where said sire may be stationed, which certificate shall state the name, age, description, pedigree and ownership of such sire, the terms and conditions upon which the said sire is advertised for service, and that the provisions of this chapter, so far as relates to the filing of the statement aforesaid, has been complied with. [1890 p 451 § 2; RRS § 3057.]

60.52.030 Statement of lien—Filing—Duration of lien. The owner or owners of any such sire receiving such certificate, by complying with RCW 60.52.010 and 60.52.020, shall obtain and have a lien upon the female served for the period of eighteen months from the date of service, or upon the get of any such sire for the period of one year from the date of birth of such get: PROVIDED, Said owner or owners shall file for record a statement of account, verified by affidavit, with the county auditor of the county wherein the service has been rendered, of the amount due such owner or owners for said service, together with a description of the female served, within ten months from the date of service or date of birth, as the case may be: PROVIDED FURTHER, That the lien upon the get of any such sire shall be a preferred lien: AND PROVIDED FURTHER, That no sale or transfer of any female animal served shall defeat the right of such lienholder. [1998 c 99 § 1; 1913 c 53 § 1; 1890 p 451 § 3; RRS § 3058.]

Additional notes found at www.leg.wa.gov

60.52.035 Delivery of semen by artificial insemination procedures—Lien upon female or offspring—No filing—Duration of lien—Statement of account. When an owner of a sire, or an owner of semen from sires, provides, for the insemination of a female, reproductively viable semen from the sire, the owner of the sire, or the owner of the semen, without satisfying the requirements of RCW 60.52.010 and 60.52.020, upon delivery of the semen by artificial insemination procedures, obtains and has a lien upon the female to which the semen is delivered by artificial insemination procedures, or a lien upon the offspring of that female as the result of delivery of the semen by artificial insemination procedures. The lien upon the female survives for eighteen months from the date of the insemination procedure; the lien upon the offspring survives for one year from the date of birth of the resulting offspring. However, the owner of the sire, or the owner of the semen, must, within ten months of the date of the insemination procedure or the date of birth, file for

record, with the county auditor of the county where the insemination procedure was rendered, a statement of account, verified by affidavit, indicating the amount due to the owner for the reproductively viable semen, along with a description of the female or the name and address of the person for whom the procedure was provided. The lien, whether upon the female or upon the offspring, is a preferred lien. Sale or transfer of the inseminated female or of the offspring does not defeat the right of the lienholder. [1998 c 99 § 2.]

Additional notes found at www.leg.wa.gov

60.52.040 Foreclosure of lien. Liens under this chapter may be foreclosed as provided in chapter 60.10 RCW. [1995 c 62 § 11; 1969 c 82 § 14; 1890 p 452 § 4; RRS § 3059.]

60.52.050 Auditor's fees. For filing certificate, making copy of such affidavit, and the certificate of date of such filing, the clerk of record shall be entitled to the same fees as are provided by law for similar service in regard to chattel mortgages. [1890 p 452 § 5; RRS § 3059 1/2.]

**Chapter 60.56 RCW
AGISTER AND TRAINER LIENS**

Sections

60.56.005	Definition of "agister."
60.56.010	Liens created.
60.56.015	Liens perfected.
60.56.018	Potential sale of animal to which lien is attached—Notice to lienholder and potential buyer.
60.56.021	Violation of RCW 60.56.018—Civil action for damages—Civil fine.
60.56.025	Lien created for care of animal seized by law enforcement officer.
60.56.035	Expiration of lien.
60.56.050	Enforcement of lien.

60.56.005 Definition of "agister." For purposes of this chapter "agister" means a farmer, rancher, herder of cattle, livery and boarding stable keeper, veterinarian, or other person, to whom horses, mules, cattle, or sheep are entrusted for the purpose of feeding, herding, pasturing, training, caring for, or ranching. [2012 c 117 § 155; 1993 c 53 § 1.]

60.56.010 Liens created. Any agister shall have a lien upon the horses, mules, cattle, or sheep, and upon the proceeds or accounts receivable from such animals, for such amount that may be due for the feeding, herding, pasturing, training, caring for, and ranching of the animals, and shall be authorized to retain possession of the horses, mules, cattle, or sheep, until the amount is paid or the lien expires, whichever first occurs. The lien attaches on the date such amounts are due and payable but are unpaid. [1993 c 53 § 2; 1989 c 67 § 1; 1987 c 233 § 1; 1909 c 176 § 1; RRS § 1197.]

60.56.015 Liens perfected. An agister who holds a lien under RCW 60.56.010 shall perfect the lien by (1) posting notice of the lien in a conspicuous location on the premises where the lienholder is keeping the animal or animals, (2) providing a copy of the posted notice to the owner of the animal or animals, and (3) providing a copy of the posted notice to any lien creditor as defined in RCW 62A.9A-102 if the amount of the agister lien is in excess of one thousand five

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hundred dollars. A lien creditor may be determined through a search under RCW 62A.9A-523 and 62A.9A-526. The lienholder is entitled to collect from the buyer, the seller, or the person selling on a commission basis if there is a failure to make payment to the perfected lienholder. [2011 c 74 § 703; 2001 c 32 § 7; 1993 c 53 § 3; 1989 c 67 § 2.]

Application—Effective date—2011 c 74: See notes following RCW 62A.9A-102.

Additional notes found at www.leg.wa.gov

60.56.018 Potential sale of animal to which lien is attached—Notice to lienholder and potential buyer. A party subject to a lien under RCW 60.56.010 shall notify (1) the lienholder of a potential sale of the animal or animals to which the lien is attached, (2) a potential buyer of the existence of the unsatisfied lien against the animal or animals for sale, and (3) any lienholder of record of the potential sale of the animal or animals and of the existence of the unsatisfied lien. [1993 c 53 § 4.]

60.56.021 Violation of RCW 60.56.018—Civil action for damages—Civil fine. A person injured by a violation of RCW 60.56.018 may bring civil action in the appropriate court of jurisdiction to recover the actual damages sustained, together with the costs of the suit, including reasonable attorney fees and any other costs associated with satisfaction of the lien. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages sustained.

If damages are awarded under this section, the court may impose on a liable party a civil fine of not more than one thousand dollars to be paid to the plaintiff. [1993 c 53 § 5.]

60.56.025 Lien created for care of animal seized by law enforcement officer. If a law enforcement officer authorizes removal of an animal pursuant to chapter 16.52 RCW, the person or entity receiving the animal and aiding in its care or restoration to health shall have a lien upon the animal for the cost of feeding, pasturing, and caring otherwise for the animal. The lien attaches on the date such costs are due and payable but are unpaid. Any such person is authorized to retain possession of the animal until such costs are paid or the lien expires, whichever first occurs. [1987 c 233 § 2.]

60.56.035 Expiration of lien. Any lien created by this chapter shall expire one hundred eighty days after it attaches, unless, within that period, an action to enforce the lien is filed pursuant to RCW 60.56.050. [1993 c 53 § 6; 1987 c 233 § 3.]

60.56.050 Enforcement of lien. Any person having a lien under the provisions of this chapter may enforce the same under chapter 60.10 RCW or, at the agister's option, by an action in any court of competent jurisdiction. If enforcement is through court proceeding, the property may be sold on execution for the purpose of satisfying the amount of the judgment and costs of sale, together with the proper costs of keeping the same up to the time of the sale. [1993 c 53 § 7; 1987 c 233 § 4; 1891 c 80 § 2; RRS § 1198. Formerly RCW 60.56.020, part.]

Chapter 60.60 RCW
LIEN FOR TRANSPORTATION, STORAGE,
ADVANCEMENTS, ETC.

Sections

60.60.010	Liens created.
60.60.020	Livestock and perishable property—Sale of.
60.60.030	Sale of other property.
60.60.040	Application of proceeds.
60.60.050	Special contract not affected.
60.60.060	Notice, how given.

60.60.010 Liens created. Every person, firm, or corporation who, as a commission merchant, carrier, wharfinger, or storage warehouse operator, shall make advances for freight, transportation, wharfage, or storage upon the personal property of another, or shall carry or store such personal property, shall have a lien thereon, so long as the same remains in his or her possession, for the charges for advances, freight, transportation, wharfage, or storage, and it shall be lawful for such person, firm, or corporation to cause such property to be sold as is herein in this chapter provided. [2011 c 336 § 822; 1927 c 144 § 1; Code 1881 § 1980; 1863 p 421 § 11; 1860 p 288 § 11; RRS § 1191.]

60.60.020 Livestock and perishable property—Sale of. If said property consists of livestock, the maintenance of which at the place where kept is wasteful and expensive in proportion to the value of the animals, or consists of perishable property liable, if kept, to destruction, waste or great depreciation, the person, firm or corporation having such lien may sell the same upon giving ten days' notice. [1927 c 144 § 2; Code 1881 § 1981; 1863 p 421 § 13; 1860 p 288 § 13; RRS § 1192.]

60.60.030 Sale of other property. All other property upon which such charges may be unpaid, due, and a lien after the same shall have remained in store uncalled for, for a period of thirty days after such charges shall have become due, may be sold by the person or persons having a lien for the payment of such charges upon giving ten days' notice: PROVIDED, That where the property can be conveniently divided into separate lots or parcels, no more lots or parcels shall be sold than shall be sufficient to pay the charges due on the day of sale, and the expenses of the sale. [Code 1881 § 1982; 1863 p 421 § 12; 1860 p 288 § 12; RRS § 1193.]

60.60.040 Application of proceeds. The moneys arising from sales made under the provisions of this chapter shall first be applied to the payment of the costs and expenses of the sale, and then to the payment of the lawful charges of the person or persons having a lien thereon for advances, freight, transportation, wharfage, or storage, for whose benefit the sale shall have been made; the surplus, if any, shall be retained subject to the future lawful charge of the person or persons for whose benefit the sale was made, upon the property of the same owner still remaining in store uncalled for, if any there be, and to the demand of the owner of the property, who shall have paid such charges or otherwise satisfied such lien, and all moneys remaining uncalled for, for the period of three months, shall be paid to the county treasurer, and shall remain in his or her hands a special fund for the benefit of the

lawful claimant thereof. [2012 c 117 § 156; Code 1881 § 1983; 1863 p 421 § 14; 1860 p 288 § 14; RRS § 1194.]

60.60.050 Special contract not affected. Nothing in this chapter contained shall be so construed as to alter or affect the terms of any special contract in writing, made by the parties as to the advances, affreightment, wharfage or storage; but when any such special contract shall have been made, its terms shall govern irrespective of this chapter. [Code 1881 § 1984; RRS § 1195.]

60.60.060 Notice, how given. All notices required under this chapter shall be given as is or may be by law provided in cases of sales of personal property upon execution. [Code 1881 § 1985; 1863 p 421 § 15; 1860 p 288 § 15; RRS § 1196.]

Sale of property on execution: Chapter 6.21 RCW.

Chapter 60.64 RCW
LIEN OF HOTELS, LODGING AND BOARDING
HOUSES—1915 ACT

Sections

60.64.003	"Hotel" defined.
60.64.005	Record of guests—Hotels and trailer camps.
60.64.007	Liability for loss of valuables, baggage and other property.
60.64.010	Lien on property of guest—"Guest" defined.
60.64.040	Sale—Notice—Disposition of funds.
60.64.050	Obtaining accommodations by fraud—Penalty.

Lien of hotels, lodging and boarding houses—1890 act: Chapter 60.66 RCW.

60.64.003 "Hotel" defined. See RCW 19.48.010.

60.64.005 Record of guests—Hotels and trailer camps. See RCW 19.48.020.

60.64.007 Liability for loss of valuables, baggage and other property. See RCW 19.48.030 and 19.48.070.

60.64.010 Lien on property of guest—"Guest" defined. The keeper of any hotel, boarding house or lodging house, whether individual, partnership or corporation, has a lien upon, and may retain, all baggage, sample cases, and other property, lawfully in the possession of a guest, boarder, or lodger, brought upon the premises by such guest, boarder, or lodger, for the proper charges due from him or her, on account of his or her food, board, room rent, lodging and accommodation, and for such extras as are furnished at his or her request, and for all money and credit paid for or advanced to him or her; and for the costs of enforcing such lien; and said hotel keeper, inn keeper, lodging house keeper or boarding house keeper, shall have the right to retain and hold possession of such baggage, sample cases and other property until the amount of such charges and moneys be fully paid, and to sell such baggage, sample cases, or other property for the payment of such lien, charges and moneys in the manner provided in RCW 60.64.040; and such baggage, sample cases and property shall not be subject to attachment or execution until such lien and storage charges and the cost of satisfying such lien are fully satisfied: PROVIDED, HOWEVER, That if any baggage, sample cases, or property becoming subject

to the lien herein provided for does not belong to the guest, boarder or lodger who incurred the charges or indebtedness secured thereby at the time when such charges or indebtedness shall be incurred, and if the hotel, inn, boarding house or lodging house keeper entitled to such lien receives actual notice of such fact at any time before the sale of such baggage, sample cases or property hereunder, then and in that event such baggage, sample cases and property which are subject to said lien and do not belong to said guest, boarder or lodger at the time when such charges or indebtedness shall be incurred, shall not be subject to sale in the manner herein provided, but the same may be sold in the manner provided by law for the sale of property under a writ of execution to satisfy a judgment obtained in any action brought to recover the said charges or indebtedness. A guest, within the meaning of this chapter and chapter 19.48 RCW, includes each and every person who is a member of the family of, or dependent upon, a guest, boarder or lodger, in such hotel, inn, boarding house or lodging house, and for whose support such tenant, guest, boarder or lodger is legally liable. [1929 c 216 § 4; 1915 c 190 § 5; RRS § 6864. Formerly RCW 60.64.010 through 60.64.030.]

60.64.040 Sale—Notice—Disposition of funds. If such lien and all such charges and moneys are not fully paid and satisfied within sixty days from the time when such charges and moneys, respectively, become due, the keeper of such hotel, inn, boarding house or lodging house, may then proceed to sell such baggage, sample cases and other property, or any part thereof, at public auction, after giving ten days notice of the time and place of sale by posting said notice in three public places in the city or town wherein such hotel, inn, boarding house or lodging house is located, and by mailing a notice of the time and place of sale to such guest[,] boarder or lodger at the place of residence, if any, registered by him or her on the register, if any, of said hotel, inn, boarding house or lodging house; and after satisfying the lien and paying all legal charges due from such guest, boarder or lodger, including proper charges for storage of the said baggage, sample cases or property, and any expense of selling the same that may accrue, any residue remaining shall, on demand, within one year after such sale, be paid to such guest, boarder or lodger, or his or her legal representatives: PROVIDED, HOWEVER, That should such guest, boarder or lodger fail or refuse to register from any particular town or city, or not register at all, the notice herein required to be mailed shall be addressed to the name of such guest, boarder or lodger at the city or town wherein such hotel, inn, boarding house or lodging house is located; and such sale shall be a perpetual bar to any action against said hotel, inn, boarding house or lodging house keeper for the recovery of such baggage, sample cases, or property, or of the value thereof, or for any damage arising from the failure of such guest, boarder or lodger to receive such baggage, sample cases, or property. [1929 c 216 § 5; 1915 c 190 § 6; RRS § 6865.]

60.64.050 Obtaining accommodations by fraud—Penalty. See RCW 19.48.110.

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Chapter 60.66 RCW LIEN OF HOTELS, LODGING AND BOARDING HOUSES—1890 ACT

Sections

- 60.66.010 Lien on property of guest.
- 60.66.020 Sale to satisfy lien—Notice.

Lien of hotels, lodging and boarding houses—1915 act: Chapter 60.64 RCW.

60.66.010 Lien on property of guest. Hereafter all hotel keepers, inn keepers, lodging house keepers and boarding house keepers in this state shall have a lien upon the baggage, property, or other valuables of their guests, lodgers or boarders, brought into such hotel, inn, lodging house or boarding house by such guests, lodgers or boarders, for the proper charges due from such guests, lodgers or boarders for their accommodation, board or lodging and such other extras as are furnished at their request, and shall have the right to retain in their possession such baggage, property or other valuables until such charges are fully paid, and to sell such baggage, property or other valuables for the payment of such charges in the manner provided in RCW 60.66.020. [1890 p 96 § 1; RRS § 1201.]

60.66.020 Sale to satisfy lien—Notice. Whenever any baggage, property, or other valuables which have been retained by any hotel keeper, inn keeper, lodging house keeper, or boarding house keeper, in his or her possession by virtue of the provision of RCW 60.66.010, shall remain unredeemed for the period of three months after the same shall have been so retained, then it shall be lawful for such hotel keeper, inn keeper, lodging house keeper, or boarding house keeper to sell such baggage, property, or other valuables at public auction, after giving the owner thereof ten days' notice of the time and place of such sale, through the post office, or by advertising in some newspaper published in the county where such sale is made, or by posting notices in three conspicuous places in such county, and out of the proceeds of such sale to pay all legal charges due from the owner of such baggage, property, or valuables, including proper charges for storage of the same, and the overplus, if any, shall be paid to the owner upon demand. [2012 c 117 § 157; 1890 p 96 § 2; RRS § 1202.]

Chapter 60.68 RCW UNIFORM FEDERAL LIEN REGISTRATION ACT

Sections

- 60.68.005 Application of chapter.
- 60.68.015 Notice of federal liens.
- 60.68.025 Certification of federal liens.
- 60.68.035 Fees for recording or filing federal liens.
- 60.68.045 Tax lien index—Duties of county auditor—Uniform commercial code filing system—Department of licensing.
- 60.68.900 Uniform application of chapter.
- 60.68.901 Short title.
- 60.68.902 Effective date—1988 c 73.
- 60.68.903 Effective date—1992 c 133.

60.68.005 Application of chapter. This chapter applies only to federal tax liens and to other federal liens, notices of which under any act of congress or any regulation adopted pursuant thereto are required or permitted to be recorded in

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the same manner as notices of federal tax liens. [1988 c 73 § 1.]

60.68.015 Notice of federal liens. (1) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be recorded for record in accordance with this chapter.

(2) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be recorded in the office of the recorder of the county in which the real property subject to the liens is situated.

(3) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed with the department of licensing. [1992 c 133 § 1; 1988 c 73 § 2.]

60.68.025 Certification of federal liens. Certification of notices of liens, certificates, or other notices affecting federal liens by the United States secretary of the treasury or the secretary's delegate, or by an official or entity of the United States responsible for recording or certifying of notice of any other lien, entitles those liens to be recorded and no other attestation, certification, or acknowledgment is necessary. [1988 c 73 § 3.]

60.68.035 Fees for recording or filing federal liens. (1) The fee for recording a lien on real estate with the county auditor shall be as set forth in RCW 36.18.010.

(2) The fee for filing liens of personal property with the department of licensing of the state of Washington shall be as determined by the department.

(3) The recording or filing officer shall bill the district directors of the internal revenue service or other appropriate federal officials on a monthly basis for fees for documents filed for record by them. [1992 c 133 § 2; 1988 c 73 § 4.]

60.68.045 Tax lien index—Duties of county auditor—Uniform commercial code filing system—Department of licensing. (1) When a notice of a tax lien is recorded under RCW 60.68.015(2), the county auditor shall forthwith enter it in the general index showing the name and residence of the taxpayer named in the notice, the collector's serial number of the notice, the date and hour of recording, and the amount of tax and penalty assessed. The auditor shall have the ability to produce a separate tax lien index listing.

(2) When a notice of a tax lien is filed under RCW 60.68.015(3), the department of licensing shall enter it in the uniform commercial code filing system showing the name and address of the taxpayer as the debtor, and the internal revenue service as a secured party, and include the collector's serial number of the notice, the date and hour of filing, and the amount of tax and penalty assessed. [1999 c 233 § 7; 1992 c 133 § 3; 1988 c 73 § 5.]

Additional notes found at www.leg.wa.gov

60.68.900 Uniform application of chapter. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [1988 c 73 § 6.]

60.68.901 Short title. This chapter may be known and cited as the uniform federal lien registration act. [1988 c 73 § 7.]

60.68.902 Effective date—1988 c 73. This chapter shall take effect July 1, 1988. [1988 c 73 § 10.]

60.68.903 Effective date—1992 c 133. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1992. [1992 c 133 § 4.]

Chapter 60.70 RCW

LIMITATIONS ON NONCONSENSUAL COMMON LAW LIENS

Sections

60.70.010	Intent—Definitions.
60.70.020	Real property common law liens unenforceable—Personal property common law liens limited.
60.70.030	No duty to accept filing of common law lien—Filing of a notice of invalid lien.
60.70.040	No duty to disclose record of common law lien.
60.70.050	Immunity from liability for failure to accept filing or disclose common law lien.
60.70.060	Petition for order directing common law lien claimant to appear before court—Service of process—Filing fee—Costs and attorneys' fees.
60.70.070	Claim of lien against a federal, state, or local official or employee—Performance of duties—Validity.

60.70.010 Intent—Definitions. (1) It is the intent of this chapter to limit the circumstances in which nonconsensual common law liens shall be recognized in this state.

(2) For the purposes of this chapter:

(a) "Lien" means an encumbrance on property as security for the payment of a debt;

(b) "Nonconsensual common law lien" is a lien that:

(i) Is not provided for by a specific statute;

(ii) Does not depend upon the consent of the owner of the property affected for its existence; and

(iii) Is not a court-imposed equitable or constructive lien;

(c) "State or local official or employee" means an appointed or elected official or any employee of a state agency, board, commission, department in any branch of state government, or institution of higher education; or of a school district, political subdivision, or unit of local government of this state; and

(d) "Federal official or employee" means an employee of the government and federal agency as defined for purposes of the federal tort claims act, 28 U.S.C. Sec. 2671.

(3) Nothing in this chapter is intended to affect:

(a) Any lien provided for by statute;

(b) Any consensual liens now or hereafter recognized under the common law of this state; or

(c) The ability of courts to impose equitable or constructive liens. [1995 c 19 § 1; 1986 c 181 § 1.]

60.70.020 Real property common law liens unenforceable—Personal property common law liens limited. Nonconsensual common law liens against real property shall not be recognized or enforceable. Nonconsensual common law liens claimed against any personal property shall not be

recognized or enforceable if, at any time the lien is claimed, the claimant fails to retain actual lawfully acquired possession or exclusive control of the property. [1986 c 181 § 2.]

60.70.030 No duty to accept filing of common law lien—Filing of a notice of invalid lien. (1) No person has a duty to accept for filing or recording any claim of lien unless the lien is authorized by statute or imposed by a court having jurisdiction over property affected by the lien, nor does any person have a duty to reject for filing or recording any claim of lien, except as provided in subsection (2) of this section.

(2) No person shall be obligated to accept for filing any claim of lien against a federal, state, or local official or employee based on the performance or nonperformance of that official's or employee's duties unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of such lien.

(3) If a claim of lien as described in subsection (2) of this section has been accepted for filing, the recording officer shall accept for filing a notice of invalid lien signed and submitted by the assistant United States attorney representing the federal agency of which the individual is an official or employee; the assistant attorney general representing the state agency, board, commission, department, or institution of higher education of which the individual is an official or employee; or the attorney representing the school district, political subdivision, or unit of local government of this state of which the individual is an official or employee. A copy of the notice of invalid lien shall be mailed by the attorney to the person who filed the claim of lien at his or her last known address. No recording officer or county shall be liable for the acceptance for filing of a claim of lien as described in subsection (2) of this section, nor for the acceptance for filing of a notice of invalid lien pursuant to this subsection. [1995 c 19 § 4; 1986 c 181 § 3.]

60.70.040 No duty to disclose record of common law lien. No person has a duty to disclose an instrument of record or file that attempts to give notice of a common law lien. This section does not relieve any person of any duty which otherwise may exist to disclose a claim of lien authorized by statute or imposed by order of a court having jurisdiction over property affected by the lien. [1986 c 181 § 4.]

60.70.050 Immunity from liability for failure to accept filing or disclose common law lien. A person is not liable for damages arising from a refusal to record or file or a failure to disclose any claim of a common law lien of record. [1986 c 181 § 5.]

60.70.060 Petition for order directing common law lien claimant to appear before court—Service of process—Filing fee—Costs and attorneys' fees. (1) Any person whose real or personal property is subject to a recorded claim of common law lien who believes the claim of lien is invalid, may petition the superior court of the county in which the claim of lien has been recorded for an order, which may be granted ex parte, directing the lien claimant to appear before the court at a time no earlier than six nor later than twenty-one days following the date of service of the petition and order on the lien claimant, and show cause, if any, why

the claim of lien should not be stricken and other relief provided for by this section should not be granted. The petition shall state the grounds upon which relief is requested, and shall be supported by the affidavit of the petitioner or his or her attorney setting forth a concise statement of the facts upon which the motion is based. The order shall be served upon the lien claimant by personal service, or, where the court determines that service by mail is likely to give actual notice, the court may order that service be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the petition and order to the lien claimant at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(2) The order shall clearly state that if the lien claimant fails to appear at the time and place noted, the claim of lien shall be stricken and released and that the lien claimant shall be ordered to pay the costs incurred by the petitioner, including reasonable attorneys' fees.

(3) The clerk of the court shall assign a cause number to the petition and obtain from the petitioner a filing fee pursuant to RCW 36.18.012.

(4) If, following a hearing on the matter, the court determines that the claim of lien is invalid, the court shall issue an order striking and releasing the claim of lien and awarding costs and reasonable attorneys' fees to the petitioner to be paid by the lien claimant. If the court determines that the claim of lien is valid, the court shall issue an order so stating and may award costs and reasonable attorneys' fees to the lien claimant to be paid by the petitioner. [2006 c 192 § 4; 1995 c 19 § 2.]

60.70.070 Claim of lien against a federal, state, or local official or employee—Performance of duties—Validity. Any claim of lien against a federal, state, or local official or employee based on the performance or nonperformance of that official's or employee's duties shall be invalid unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of such lien or unless a specific statute authorizes the filing of such lien. [1995 c 19 § 3.]

Chapter 60.72 RCW LANDLORD'S LIEN FOR RENT

Sections

60.72.010 Liens created—Priority—Extent—Exceptions.
60.72.040 Foreclosure of lien.

60.72.010 Liens created—Priority—Extent—Exceptions. Any person to whom rent may be due, his or her executors, administrators, or assigns, shall have a lien for such rent upon personal property which has been used or kept on the rented premises by the tenant, except property of third persons delivered to or left with the tenant for storage, repair, manufacture, or sale, or under conditional bills of sale duly filed, and such property as is exempt from execution by law. Such liens for rent shall be paramount to, and have preference

over, all other liens except liens for taxes, general and special liens of labor, and liens of mortgages duly recorded prior to the tenancy. Such liens shall not be for more than two months' rent due, except that a lien for up to four months' rent due may be established when the tenant is renting a mobile home lot in a mobile home park as defined in RCW 59.20.030. No lien may be enforced for any rent or any installment thereof which has been due for more than two months at the time of the commencement of an action to foreclose such liens, except that a lien may be enforced for rent due for up to four months at the time of the commencement of an action to foreclose the lien when the tenant is renting a mobile home lot in a mobile home park as defined in RCW 59.20.030. No writing or recording shall be necessary to create such lien; and if such property be removed from the rented premises and not returned to the owner, agent, executor, administrator, or assign, the lien shall continue and be a superior lien on the property so removed for ten days from the date of its removal, and the lien may be enforced against the property wherever found. In the event the property contained in the rented premises be destroyed by fire or other elements, the lien shall extend to any money that may be received by the tenant as indemnity for the destruction of the property, nor shall the lien be lost by the sale of the property, except merchandise sold in the usual course of trade or to purchasers without notice of the tenancy. The provisions of this chapter shall not apply to, nor shall it be enforced against, the property of tenants in dwelling houses or apartments or any other place that is used exclusively as a home or residence of the tenant and his or her family. [1990 c 169 § 3; 1927 c 108 § 1; 1917 c 165 § 1; RRS § 1203-1. Formerly RCW 60.72.010, 60.72.020, 60.72.030.]

60.72.040 Foreclosure of lien. Said lien may be foreclosed as provided in chapter 60.10 RCW. [1995 c 62 § 12; 1969 c 82 § 15; 1917 c 165 § 2; RRS § 1203-2.]

Chapter 60.76 RCW

LIEN OF EMPLOYEES FOR CONTRIBUTIONS TO BENEFIT PLANS

Sections

60.76.010	Lien authorized.
60.76.020	Notice of lien—Contents—Filing and serving.
60.76.030	Manner of serving notice.
60.76.040	Manner of enforcing lien—Costs.
60.76.050	Priority of lien.

60.76.010 Lien authorized. Every employer who is required to pay contributions, by agreement or otherwise, into a fund of any employee benefit plan in order that his or her employee may participate therein, shall pay such contributions in the required amounts and at the stipulated time or each employee affected thereby shall have a lien on the earnings and on all property used in the operation of said employer's business to the extent of the moneys, plus any penalties, due to be paid by or on his or her behalf in order to qualify him or her for participation therein, and for any moneys expended or obligations incurred for medical, hospital, or other expenses to which he or she would have been entitled had such required contributions been paid. [2012 c 117 § 158; 1961 c 86 § 1.]

60.76.020 Notice of lien—Contents—Filing and serving. The lien claimant, or his or her representative on his or her behalf, or the trustee of the fund on the claimant's behalf, within sixty days after such payment becomes due shall file for record with the auditor of the county wherein the claimant is or was employed by such employer a notice of claim, containing a statement of the demand, the name of the employer, and the name of the person employing the claimant, if known, with a statement of the pertinent terms and conditions of the employee benefit plan and the time when such contributions are due and were to have been paid, and shall serve or mail a copy thereof to said employer within such time. [2012 c 117 § 159; 1961 c 86 § 2.]

60.76.030 Manner of serving notice. Service of the notice of claim may be made in the same manner as summons in civil actions. [1961 c 86 § 3.]

60.76.040 Manner of enforcing lien—Costs. The lien may be enforced within the same time and in the same manner as mechanics' liens are foreclosed when said lien is upon real property, or within the same time and in the same manner as chattel liens are enforced when the lien is upon personal property. The court may allow, as part of the costs of the action, the moneys paid for filing or recording the claim, a reasonable attorney's fee in the superior court, court of appeals, and supreme court, and court costs. [1971 c 81 § 130; 1961 c 86 § 4.]

60.76.050 Priority of lien. The lien created herein shall be preferred to any encumbrance which may attach after the contribution payments became due and is also preferred to any encumbrance which may have attached previous to that time, but which was not filed or recorded so as to create constructive notice thereof prior to that time, and of which the lien claimant had no notice. [1961 c 86 § 5.]

Chapter 60.80 RCW

LIEN FOR UNRECORDED UTILITY CHARGES

Sections

60.80.005	Definitions.
60.80.010	Seller of real property responsible for satisfying lien—Closing agent's duties and liabilities—Fee.
60.80.020	Seller's duty to inform closing agent—Written waiver—Closing agent's duties—Utility's duties—Payment of final billing.
60.80.900	Effective date—1996 c 43.

60.80.005 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) Except as otherwise provided in this subsection (1), "charges" include: (a) All lawful charges assessed by a utility operated under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW, but not evidenced by a recorded lien, recorded covenant, recorded agreement, or special assessment roll filed with the city or county treasurer or assessor, and not billed and collected with property taxes; and (b) penalties and interest, and reasonable attorneys' fees and other costs of foreclosure if foreclosure proceedings have been commenced.

(2) "Closing agent" means an escrow agent as defined in *RCW 18.44.011(6) or a person exempt from licensing requirements under RCW 18.44.021, handling the escrow on the sale of the real property.

(3) "Real estate agent" means a real estate broker, real estate salesperson, associate real estate broker, or person as defined in **RCW 18.85.010 (1) through (4).

(4) "Business day" means a day the offices of the county or counties in which the utility in question provides service are open for business. [2004 c 215 § 7; 1996 c 43 § 1.]

Reviser's note: *(1) RCW 18.44.011 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (6) to subsection (7). RCW 18.44.011 was subsequently amended by 2011 1st sp.s. c 21 § 45, changing subsection (7) to subsection (8).

** (2) RCW 18.85.010 was recodified as RCW 18.85.011 pursuant to 2008 c 23 § 49; and RCW 18.85.010 was also amended by 2008 c 23 § 1, changing and/or removing the definitions in subsections (1) through (4), effective July 1, 2010.

60.80.010 Seller of real property responsible for satisfying lien—Closing agent's duties and liabilities—Fee.

(1) Unless otherwise stated and acknowledged in writing by the purchaser, the seller of a fee interest in real property is responsible for satisfying, upon closing, any lien provided for by RCW 35.21.290, 35.67.200, 36.36.045, *36.89.090, or 36.94.150.

(2) No closing agent may refuse a written request by the seller or purchaser of a fee interest in real property to administer the disbursement of closing funds necessary to satisfy unpaid charges as charges are defined in RCW 60.80.005. Except as otherwise provided in this subsection (2), a closing agent who refuses such a written request is liable to the purchaser for unpaid charges for utility services covered by the request. A closing agent is not liable if the closing agent's refusal is based on the seller's inaccurate or incomplete identification of utilities providing service to the property, or if a utility fails to provide an estimated or actual final billing, or written extension of the per diem rate, as required by RCW 60.80.020, or if disbursement of closing funds necessary to satisfy the unpaid charges would violate RCW 18.44.400.

(3) A closing agent may charge a fee for performing the services required of the closing agent by this chapter, which fee may be in addition to other fees or settlement charges collected in the course of ordinary settlement practices. [2004 c 215 § 8; 1996 c 43 § 2.]

***Reviser's note:** RCW 36.89.090 was recodified as RCW 36.89.065, September 2007.

60.80.020 Seller's duty to inform closing agent—Written waiver—Closing agent's duties—Utility's duties—Payment of final billing.

(1) Unless the seller and purchaser waive, in writing, the services of a closing agent in administering the disbursement of closing funds necessary to satisfy unpaid charges as charges are defined in RCW 60.80.005, the seller shall, as a provision in a written agreement for the purchase and sale of real estate, inform the closing agent for the sale of the names and addresses of all utilities, including special districts, providing service to the property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW. The provision of the information in a written agreement for the purchase and sale of real estate constitutes a

written request to the closing agent to administer disbursement of closing funds necessary to satisfy unpaid charges.

Unless the seller and purchaser have waived the services of a closing agent as provided in this subsection, the closing agent shall submit a written request for a final billing to each utility identified by the seller as providing service to the property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW. Either the seller or purchaser may submit a written request for a final billing to each utility identified by the seller as providing service to the property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW.

The written request must identify the property by both legal description and address. The closing agent, seller, or purchaser may submit a written request to a utility by facsimile. In requesting final billings for utility services, the closing agent may rely upon information provided by the seller, and a closing agent or a real estate agent who is not the seller is not liable for inaccurate or incomplete information.

(2) After receiving a written request for a final billing for utility services to real property to be sold, a utility operated under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW shall provide the requesting party with a written estimated or actual final billing as provided in this section. If the utility is unable to provide a written estimated or actual final billing or written extension of the per diem rate, due to insufficient information to identify the account, the utility shall notify the requesting party in writing that the information is insufficient to identify the account.

The utility shall provide the written estimated or actual final billing, or statement that the information in the request is insufficient to identify the account, to the requesting party within seven business days of receipt of the written request if the request was mailed to the utility, or within three business days if the request was sent to the utility by facsimile or delivered to the utility by messenger. A utility may provide a written estimated or actual final billing to the requesting party by facsimile.

(a) The final billing must include all outstanding charges and, in addition to the estimated or actual final amount owing as of the stated closing date, must state the average per diem rate for the utility or utilities involved, including taxes and other charges, which shall apply for up to thirty days beyond the stated closing date if the closing date is delayed.

(b) If closing is delayed beyond thirty days, a new estimated or actual final billing must be requested in writing. In lieu of furnishing a written revised final billing, the utility may extend, in writing, the number of days for which the per diem charge applies. The utility shall respond within seven business days of receipt of the written request for a new estimated or actual final billing if the request was mailed to the utility, or within three business days if the request was sent to the utility by facsimile or delivered to the utility by messenger.

(c) If a utility fails to provide a written estimated or actual final billing, written extension of the per diem rate, or statement that the information in the request is insufficient to identify the account, within seven business days of receipt of a written request if the request was mailed to the utility, or within three business days if the request was sent to the utility by facsimile or delivered to the utility by messenger, an unrecorded lien provided for by RCW 35.21.290, 35.67.200,

36.36.045, *36.89.090, or 36.94.150 for charges incurred prior to the closing date is extinguished, and the utility may not recover the charges from the purchaser of the property.

(d) A closing agent shall inform the seller and purchaser of all applicable estimated and actual final billings furnished by utilities.

In performing his or her duties under this chapter, a closing agent may rely upon information provided by utilities and is not liable if information provided by utilities is inaccurate or incomplete.

(3) If closing occurs no later than the last date for which per diem charges may be applied, full payment of the estimated or actual final billing plus per diem charges extinguishes a lien of the utility provided for by RCW 35.21.290, 35.67.200, 36.36.045, *36.89.090, or 36.94.150 for charges incurred prior to the closing date.

(4)(a) Except as otherwise provided in this subsection (4)(a), this section does not limit the right of a utility to recover from the purchaser of the property unpaid utility charges incurred prior to closing, if the utility did not receive a written request for a final billing or if the utility complied with subsection (2) of this section.

A utility may not recover from a purchaser unpaid utility charges incurred prior to closing in excess of an estimated final billing.

(b) This section does not limit the right of a utility to recover unpaid utility charges incurred prior to closing, including unpaid utility charges in excess of an estimated final billing, from the seller of the property, or from the person or persons who incurred the charges.

(c) If an estimated final billing is in excess of the actual final billing, unless otherwise directed in writing by the seller and purchaser, a utility shall refund any overcharge to the seller of the property by sending the refund in the seller's name to the last address provided by the seller. A utility shall refund the overcharge within fourteen business days of the date the utility receives payment for the final billing, unless a county treasurer acts in an ex officio capacity as the treasurer of a utility, in which case the utility shall refund the overcharge within thirty business days of the date the utility receives payment for the final billing. [2004 c 215 § 9; 1996 c 43 § 3.]

*Reviser's note: RCW 36.89.090 was recodified as RCW 36.89.065, September 2007.

60.80.900 Effective date—1996 c 43. This act shall take effect January 1, 1997. [1996 c 43 § 4.]

Chapter 60.84 RCW

LIEN ON DIES, MOLDS, FORMS, AND PATTERNS

Sections

- 60.84.005 Definitions.
- 60.84.010 Plastic fabricator, molder, and person conducting a plastic fabricating business has a lien—May retain possession—Notice to customer—Foreclosure by notice and sale.

60.84.005 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Customer" means an individual or entity that contracts with, causes, or caused a plastic fabricator to use a die,

mold, form, or pattern to manufacture, assemble, or otherwise make a plastic product.

(2) "Plastic fabricator," "fabricator," or "molder" means an individual or entity, including but not limited to a tool or die maker, that contracts to or uses a die, mold, form, or pattern to manufacture, assemble, or otherwise make a plastic product for a customer. [1996 c 235 § 3.]

60.84.010 Plastic fabricator, molder, and person conducting a plastic fabricating business has a lien—May retain possession—Notice to customer—Foreclosure by notice and sale.

(1) A plastic fabricator, molder, and person conducting a plastic fabricating business has a lien, dependent on possession, on a die, mold, form, or pattern belonging to the customer for the amount owing from the customer for plastic fabrication work and for the value of materials used in the work. The fabricator may retain possession of the die, mold, form, or pattern until the charges are paid. This lien does not have priority over any security interest in the die, mold, form, or pattern that is perfected at the time the fabricator acquires the lien.

(2) Before a lien is enforced, the fabricator must cause written notice to be delivered personally or by registered or certified mail to the last known address of the customer. The notice must state that the fabricator will exercise its lien right because of nonpayment. The notice must also state the amount of money owed and demand payment. The fabricator's name, address, and phone number must be included in the notice.

(3) If the fabricator is not paid the total due within sixty days after the notice has been received by the customer, the fabricator may foreclose the lien by notice and sale as provided in this section, if the die, mold, form, or pattern is in the fabricator's possession. The fabricator must send notice of intended sale, by registered or certified mail with return receipt requested, to the last known address of the customer. The notice must include: A description of the die, mold, form, or pattern to be sold; a statement of intent to sell the die, mold, form, or pattern at public sale; the date, time, and place of the sale; and an itemized statement of moneys owing.

If there is no return receipt or if the postal service returns the notice as undeliverable, the fabricator shall publish notice of intention to sell the die, mold, form, or pattern at public sale in a newspaper of general circulation in the county where the die, mold, form, or pattern is physically located. The publication must include: A description of the die, mold, form, or pattern; the name, address, and phone number of the customer; the name, address, and phone number of the fabricator; and the date, time, and place of the sale.

The fabricator is entitled to the amount owing plus the costs of holding, preparing for sale, and selling the die, mold, form, or pattern. The fabricator is also entitled to reasonable attorneys' fees incurred.

(4) If the sale proceeds exceed the amount owing, the excess must be paid to subsequent lienholders. Any remainder must be remitted to the customer.

(5) A public sale may not be held under this section if it is in violation of a right of a customer under federal patent or copyright law. [1996 c 235 § 4.]