

**Oregon Rules of Civil Procedure  
Legislative Amendments 1979-2023**

**ORCP 81**

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Lewis & Clark Law School | Oregon Council on Court Procedures

## Rule 81 – Definitions; Service; Adverse Claimants

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§	Latest Amendment
A	Or. Laws 2003 c.576 § 264
B	Or. Laws 1981 c.898 § 11
C	Or. Laws 1981 c.883 § 37
D	Or. Laws 1981 c.898 § 12

### Or. Laws 1981 c.883 § 36–37

§36 Amends Rule 81;

§37 Amends Rule 81(C)

**[Note from §37, referring to Rule 81(C):** “If House Bill 3261 (1981) becomes law, sections 11 and 12, chapter 898, Oregon Laws 1981 (Enrolled House Bill 3261), are repealed, and ORCP 81(C), as amended by section 36 of this Act, is amended to read: [...]”; **H.B. 3261 (1981) became law. The changes to Rule 81(C) in 1981 c.883 § 36 have been omitted below and replaced by the changes in 1981 c.883 § 37.]**

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- A. **Definitions.** As used in Rules ~~81–85~~ **81 through 85**, unless the context otherwise requires:
1. [Unamended]
  2. [Unamended]
  3. [Unamended]
  4. [Unamended]
  5. [Unamended]
  6. [Unamended]
  7. **Levy.** "Levy" means to create a lien upon property prior to judgment by any of the procedures provided by Rules ~~81–85~~ **81 through 85** that create a lien.
  8. [Unamended]
  9. [Unamended]
  10. [Unamended]
  11. [Unamended]
  12. [Unamended]
- B. ~~Notice to defendant following levy.~~ [Section deleted in full] [(C)] **Service of notices or orders; proof of service.**
1. **Service.** Except where some other method is expressly permitted, any notice or order to show cause required or permitted to be served by Rules ~~81–85~~ **81 through 85** shall be served in the manner in which a summons may be served.
  2. **Proof of service.** [Full section text unamended]
- C. [D] **Adverse Claimants.** A person other than the defendant claiming to be the actual owner of property subject to provisional process, or any interest in such property, may move the court for an order establishing the claimant's title or interest, extinguishing the plaintiff's lien, or other appropriate relief. **A hearing upon such motion shall be conducted within 20 days after service pursuant to Rule 9. After hearing:**
1. **Summary release of attachment.** In a case where there is no genuine issue as to any material fact and the claimant is entitled to relief as a matter of law, the court may make an order establishing claimant's title or interest, extinguishing or limiting the plaintiff's lien, or granting other appropriate relief. **In such case, the court may enter an order directing the plaintiff to pay the claimant the reasonable expenses incurred in securing such order, including attorney fees.**
  2. **Continuation of attachment.** [Full section text unamended]

**S.B. 527**

Or. Laws 1981 c.883 § 36-37

**Senate Introduction**

3/30/81

**A-Engrossed Bill**

7/8/81 – Passed with amendments in Senate (per Justice Committee recommendation)

7/27/81 – Passed with amendments in House (per Judiciary Committee recommendation)

**B-Engrossed Bill**

7/29/81 – Senate concurred with House Amendments and repassed the bill.

**Governor signed Enrolled Bill**

8/22/81

Or. Laws 1981 c.898 § 11–12

§11 Amends Rule 81(B);

§12 Amends Rule 81(D)

A. [Unamended]

B. Notice to defendant following levy.

1. Form of notice. [Full section text unamended]

IN THE _____ COURT OF		
THE STATE OF OREGON		
FOR _____ COUNTY		
	)	
	)	No. _____
Plaintiff	)	
	)	
v.	)	NOTICE OF LEVY
	)	
Defendant	)	
	)	

TO: (Defendant) IMPORTANT NOTICE. READ CAREFULLY. IT CONCERNS YOUR PROPERTY.

1. Action was commenced against you on \_\_\_\_\_ for \$\_\_\_\_\_.
2. To secure payment the following has been levied on:  
(E.g.: 1979 Chevrolet, License # ABC 123  
Savings account in Fiduciary Trust &  
Savings Co.  
Etc.)
3. This property will (be held in court)(remain subject to a lien) while the action is pending and may be taken from you permanently if judgment is entered against you.
4. You may release the property from the levy by delivering a bond to the clerk of the court.

If you have any questions about this matter, you should consult an attorney.

IF YOU DO NOTHING ABOUT THIS, YOU MAY LOSE THIS PROPERTY PERMANENTLY.

\_\_\_\_\_  
 Name and address of plaintiff  
 or plaintiff's attorney

2. Notice of exemption. If the defendant is a natural person, the notice served shall also contain **the following statement:**

**~~SOME KINDS OF PROPERTY CANNOT BE TAKEN FROM YOU IN A LEGAL PROCEEDING. THE PROPERTY DESCRIBED IN THIS NOTICE MAY OR MAY NOT BE THE KIND OF PROPERTY THAT CANNOT BE TAKEN IF YOUR PROPERTY IS PROTECTED, YOU MUST TAKE ACTION IMMEDIATELY TO CLAIM THAT YOUR PROPERTY CANNOT BE TAKEN IF YOU DO NOT ACT, YOU WILL LOSE THE PROPERTY, WHETHER OR NOT IT IS PROTECTED. YOU SHOULD GET LEGAL ADVICE TO DETERMINE IF THE PROPERTY DESCRIBED IN THIS NOTICE CAN BE TAKEN IN THIS PROCEEDING AND HOW TO TAKE THE REQUIRED ACTION TO CLAIM THAT YOUR PROPERTY CANNOT BE TAKEN.~~**

- a. A list of all property and funds declared exempt under state or federal law;
- b. An explanation of the procedure by which the defendant may claim an exemption;
- c. A statement that the forms necessary to claim an exemption are available at the county courthouse at no cost to the defendant; and
- d. A statement that if the defendant has any questions, the defendant should consult an attorney.

3. [Unamended]

C. [Unamended]

- D. **Adverse claimants.** A person other than the defendant claiming to be the actual owner of property subject to provisional process, or any interest in such property, may move the court for an order establishing the claimant's title or interest, extinguishing the plaintiff's lien, or other appropriate relief. **A hearing upon such motion shall be conducted within 20 days after service pursuant to Rule 9.** After hearing:
1. **Summary release of attachment.** In a case where there is no genuine issue as to any material fact and the claimant is entitled to relief as a matter of law, the court may make an order establishing claimant's title or interest, extinguishing or limiting the plaintiff's lien, or granting other appropriate relief. **In such case, the court may enter an order directing the plaintiff to pay the claimant the reasonable expenses incurred in securing such order, including attorney fees.**
  2. [Unamended]

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## H.B. 3261

Or. Laws 1981 c.898 § 11

### House Introduction

6/5/81

### A-Engrossed Bill

6/23/81 – Passed unamended in House

7/17/81 – Passed with amendments in Senate (per Justice Committee recommendation)

7/24/81 – House refused to concur with Senate Amendments; Conference Committee formed

### Conference Committee Bill

8/1/81 – House adopted and repassed Conference Committee Bill

8/1/81 – Senate adopted and repassed Conference Committee Bill

### Governor signed Enrolled Bill

8/22/81

**Or. Laws 1995 c.658 § 120**  
Amends Rule 81(A)

**A. Definitions. [Full section text unamended]**

1. [Unamended]
2. [Unamended]
3. [Unamended]
4. [Unamended]
5. [Unamended]
6. [Unamended]
7. [Unamended]
8. [Unamended]
9. [Unamended]
10. [Unamended]
11. **Sheriff.** “Sheriff” includes a constable of a ~~district or~~ justice court.
12. [Unamended]

**B.** [Unamended]

**C.** [Unamended]

**D.** [Unamended]

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**H.B. 2625**

Or. Laws 1995 c.658 § 120

**House Introduction**

2/10/95

**A-Engrossed Bill**

2/13/95 – Referred to Judiciary Committee

2/23/95 – Assigned to Civil Law and Judicial Administration Subcommittee

4/20/95 – Returned to Judiciary Committee

5/10/95 – Judiciary Committee recommended passing with amendments, printing engrossed (A-Eng.), and referring to Ways and Means Committee; Referred to Ways and Means Committee

5/30/95 – Assigned to Public Safety/Regulation Subcommittee

6/4/95 – Returned to Ways and Means Committee

6/5/95 – Ways and Means Committee recommended passing with amendments and printing engrossed (B-Eng.)

6/7/95 – Passed with amendments in House (per Judiciary Committee and Ways and Means Committee recommendations)

**B-Engrossed Bill**

6/7/95 – Referred to Senate Ways and Means Committee

6/8/95 – Senate Ways and Means Committee recommended passing with amendments

6/9/95 – Passed with amendments in Senate (per Ways and Means Committee recommendation)

**C-Engrossed Bill**

6/9/95 – House concurred with Senate amendments and repassed bill

**Governor signed Enrolled Bill**

7/18/95

**Or. Laws 2001 c.445 § 186**  
Amends Rule 81(A)

**A. Definitions. [Full section text unamended]**

1. [Unamended]
  2. [Unamended]
  3. [Unamended]
  4. **Consumer goods.** “Consumer goods” means consumer goods as defined in ~~ORS 79.1090~~ **section 2 of this 2001 Act.**
  5. [Unamended]
  6. [Unamended]
  7. [Unamended]
  8. [Unamended]
  9. [Unamended]
  10. [Unamended]
  11. [Unamended]
  12. [Unamended]
- B.** [Unamended]  
**C.** [Unamended]  
**D.** [Unamended]

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**S.B. 171**

Or. Laws 2001 c.445 § 186

**Senate Introduction**

1/11/01

**A-Engrossed Bill**

1/24/01 – Passed unamended in Senate

3/27/01 – Passed with amendments in House (per Judiciary Committee and Civil Law Subcommittee recommendation)

**B-Engrossed Bill**

3/29/01 – Senate refused to concur with House Amendments; Conference Committee created

**Conference Committee Bill**

5/30/01 – Conference Committee recommended Senate concur with House Amendments and bill (A-Eng) be further amended and repassed.

6/1/01 – Senate adopted Conference Committee bill and repassed.

6/5/01 – House adopted Conference Committee bill and repassed.

**Governor signed Enrolled Bill**

6/19/01

**Or. Laws 2003 c.576 § 264**  
Amends Rule 81(A)

**A. Definitions. [Full section text unamended]**

1. [Unamended]
2. [Unamended]
3. [Unamended]
4. [Unamended]
5. [Unamended]
6. [Unamended]
7. [Unamended]
8. [Unamended]
9. **Provisional process.** "Provisional process" means attachment under Rule 84, claim and delivery under Rule 85, temporary restraining orders under Rule 83, preliminary injunctions under Rule 83, or any other legal or equitable judicial process or remedy which before **final entry of a** judgment enables a plaintiff, or the court on behalf of the plaintiff, to take possession or control of, or to restrain use or disposition of, or fix a lien on property in which the defendant claims an interest, except an order appointing a provisional receiver under Rule 80 or granting a temporary restraining order or preliminary injunction under Rule 79.
10. [Unamended]
11. [Unamended]
12. [Unamended]

**B.** [Unamended]

**C.** [Unamended]

**D.** [Unamended]

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**H.B. 2646**

Or. Laws 2003 c.576 § 264

**House Introduction**

2/13/03

**A-Engrossed Bill**

5/6/03 – Passed with amendments in House (per Judiciary Committee recommendation)

6/27/03 – Passed with amendments in Senate (per Judiciary Committee recommendation)

**B-Engrossed Bill**

7/1/03 – House concurred with Senate amendments and repassed bill

**Governor signed Enrolled Bill**

7/17/03