

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

**ORCP 83**

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Lewis & Clark Law School | Oregon Council on Court Procedures

## Rule 83 – Provisional Process

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| § | Latest Amendment          |
|---|---------------------------|
| A | Or. Laws 2003 c.194 § 18  |
| B | Unamended                 |
| C | Or. Laws 2003 c.194 § 18  |
| D | Or. Laws 1991 c.83 § 7    |
| E | Or. Laws 1987 c.586 § 44  |
| F | Or. Laws 2005 c.22 § 4(B) |
| G | Or. Laws 2003 c.194 § 18  |
| H | Unamended                 |
| I | Unamended                 |

### Or. Laws 1987 c.586 § 44

Amends Rule 83(E)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. **Issuance of provisional process where damage to property threatened.** Subject to section B. of this rule, if the court finds that before hearing on a show cause order the defendant or other person in possession or control of the claimed property is engaging in, or is about to engage in, conduct which would place the claimed property in danger of destruction, serious harm, concealment, removal from this state, or transfer to an innocent purchaser or that the defendant or other person in possession or control of the claimed property would not comply with a temporary restraining order, and if Rule 82 A. has been complied with, the court shall order issuance of provisional process in property which probably would be the subject of such destruction, harm, concealment, removal, transfer, or violation. **Where real property is subject to provisional process as provided by this section, the plaintiff shall have recorded in the County Clerk Lien Record a certified copy of that order.**
- F. [Unamended]
- G. [Unamended]
- H. [Unamended]
- I. [Unamended]

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### H.B. 2323

Or. Laws 1987 c.586 § 44

#### House Introduction

1/16/87

#### A-Engrossed Bill

6/8/87 – Passed with amendments in House (per Judiciary Committee recommendation)

6/19/87 – Passed with amendments in Senate (per Judiciary Committee recommendation)

#### B-Engrossed Bill

6/22/87 – House concurred with Senate amendments and repassed bill.

#### Governor signed Enrolled Bill

7/11/87

**Or. Laws 1991 c.83 § 6–7**  
§6 Amends Rule 83(A);  
§7 Amends Rule 83(D)

**A. Requirements for issuance. [Full section text unamended]**

1. [Unamended]
2. [Unamended]
3. [Unamended]
4. [Unamended]
5. [Unamended]
6. [Unamended]
7. [Unamended]
8. [Unamended]
9. If provisional process is based on notice of a bulk transfer ~~under ORS chapter 76 or a similar statute or provision of law~~, a copy of the notice.
10. [Unamended]
11. [Unamended]
12. [Unamended]
13. [Unamended]

**B.** [Unamended]

**C.** [Unamended]

**D. Effect of notice of bulk transfer.** Subject to section B. of this rule, if the court finds that with respect to property of the defendant notice of bulk transfer ~~under ORS chapter 76 or a similar statute or provision of law~~ has been given and that the time for possession by the transferee has not passed, the court shall order issuance of provisional process.]

**E.** [Unamended]

**F.** [Unamended]

**G.** [Unamended]

**H.** [Unamended]

**I.** [Unamended]

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**S.B. 396 [Passed Unamended]**

Or. Laws 1991 c.83 § 6–7

**Or. Laws 2003 c.194 § 18**  
Amends Rule 83(A), (C), and (G)

- A. Requirements for issuance.** To obtain an order for issuance of provisional process the plaintiff shall cause to be filed with the clerk of the court from which such process is sought a sworn petition and any necessary supplementary affidavits **or declarations** requesting specific provisional process and showing, to the best knowledge, information, and belief of the plaintiff, ~~or~~ **affiant**, **or declarant** that the action is one in which provisional process may issue, and: **[Subsections A(1)–(12) unamended]**
- B.** [Unamended]
- C. Evidence admissible; choice of remedies available to court.**
1. The court shall consider the affidavit, **declaration** or petition filed under section A of this rule and may consider other evidence including, but not limited to, an affidavit, **a declaration, a** deposition, **an** exhibit, or oral testimony.
  2. If from the affidavit, **declaration** or petition or other evidence, if any, the court finds that a complaint on the underlying claim has been filed and that there is probable cause for sustaining the validity of the underlying claim, the court shall consider whether it shall order issuance of provisional process, as provided in section D or E of this rule, or a restraining order, as provided in section F of this rule, in addition to a show cause order. The finding under this subsection is subject to dissolution upon hearing.
- D.** [Unamended]
- E.** [Unamended]
- F.** [Unamended]
- G. Appearance; hearing; service of show cause order; content; effect of service on person in possession of property.**
1. [Unamended]
  2. [Unamended]
  3. The order shall:
    - a. State that the defendant may file affidavits **or declarations** with the court and may present testimony at the hearing; and
    - b. [Unamended]
    - c. [Unamended]
- H.** [Unamended]
- I.** [Unamended]

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**H.B. 2064 [Passed Unamended]**  
Or. Laws 2003 c.194 § 18

**Or. Laws 2005 c.22 § 4(B)**  
Amends Rule 83(F)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. **Appearance: hearing service of show cause order; content; effect of service on person in possession of property.**
  - 1. [G(1)] Subject to section B of this rule, the court shall issue an order directed to the defendant and each person having possession or control of the claimed property requiring the defendant and each such other person to appear for hearing at a place fixed by the court and at a fixed time after the third day after service of the order and before the seventh day after service of the order to show cause why provisional process should not issue. Upon request of the plaintiff the hearing date may be set later than the seventh day.
  - 2. [G(2)] The show cause order issued under subsection (1) of this section shall be served on the defendant and on each other person to whom the order is directed.
  - 3. [G(3)] The order shall:
    - a. [G(3)(a)] State that the defendant may file affidavits or declarations with the court and may present testimony at the hearing; and
    - b. [G(3)(b)] State that if the defendant fails to appear at the hearing the court will order issuance of the specific provisional process sought.
  - 4. [G(4)] If at the time fixed for hearing the show cause order under subsection (1) of this section has not been served on the defendant but has been served on a person in possession or control of the property, and if Rule 82 A has been complied with, the court may restrain the person so served from injuring, destroying, transferring, removing, or concealing the property pending further order of the court or continue a temporary restraining order issued under section ~~F~~ E of this rule. Such order shall conform to the requirements of Rule 79 D. Any restraining order issued under this subsection does not create a lien.
- G. [Unamended]
- H. [Unamended]
- I. [Unamended]

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**H.B. 2261**

Or. Laws 2005 c.22 § 4(B)

**House Introduction**

1/12/05

**A-Engrossed Bill**

2/16/05 – Passed unamended in House

3/22/05 – Passed with amendments in Senate (per Judiciary Committee recommendation)

**Governor signed Enrolled Bill**

4/7/05