

TITLE 45
LIENS, MORTGAGES AND PLEDGES

CHAPTER 4
LOGGERS' LIENS

45-401. LIENS UPON SAW LOGS. Every person performing labor upon, or who shall assist in obtaining or securing, saw logs, spars, piles, cord wood, or other timber, has a lien upon the same for the work or labor done upon, or in obtaining or securing the same, whether such work or labor was done at the instance of the owner of the same or his agent. The cook shall be regarded as a person who assists in obtaining or securing the timber herein mentioned.

[(45-401) 1893, p. 49, ch. 2, sec. 1; reen. 1899, p. 147, ch. 2, sec. 1; reen. R.C. & C.L., sec. 5125; C.S., sec. 7356; I.C.A., sec. 44-401.]

45-402. LIEN ON LUMBER MADE FROM SAW LOGS. Every person performing labor upon, or who shall assist in manufacturing saw logs into lumber, has a lien upon such lumber while the same remains at the mill where manufactured, whether such work or labor was done at the instance of the owner of such logs or of his agents.

[(45-402) 1893, p. 49, ch. 2, sec. 2; reen. 1899, p. 147, ch. 2, sec. 2; reen. R.C. & C.L., sec. 5126; C.S., sec. 7357; I.C.A., sec. 44-402.]

45-403. LIEN FOR PURCHASE PRICE UPON LOGS. Any person who shall permit another to go upon his timber land and cut thereon saw logs, spars, piles, cord wood or other timber, has a lien upon such logs, spars, piles, cord wood and timber, 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.

[(45-403) 1893, p. 49, ch. 2, sec. 3; reen. 1899, p. 147, ch. 2, sec. 3; reen. R.C. & C.L., sec. 5127; C.S., sec. 7358; I.C.A., sec. 44-403.]

45-404. LIENS PREFERRED TO OTHER LIENS. The liens provided for in this chapter are prior to any other liens, and no sale or transfer of any saw logs, spars, piles, cord wood or other timber or manufactured lumber shall divest the lien thereon as herein provided, and such lien shall follow such property into any county in this state into which the same may be removed: provided, notice of such lien shall have been filed in such county.

[(45-404) 1893, p. 49, ch. 2, sec. 4; reen. 1899, p. 147, ch. 2, sec. 4; reen. R.C. & C.L., sec. 5128; C.S., sec. 7359; I.C.A., sec. 44-404.]

45-405. TIME FOR FILING LIEN FOR WORK OR LABOR. The person rendering the service or doing the work or labor named in sections [45-401](#) and [45-402](#)[, Idaho Code,] is only entitled to the liens as provided herein for services, work or labor, for the period of eight (8) calendar months next preceding the filing of the claim, as provided in section [45-407](#)[, Idaho Code].

[(45-405) 1893, p. 49, ch. 2, sec. 5; reen. 1899, p. 147, ch. 2, sec. 5; reen. R.C. & C.L., sec. 5129; C.S., sec. 7360; I.C.A., sec. 44-405.]

45-406. TIME FOR FILING LIENS FOR PURCHASE PRICE. The person granting the privilege mentioned in section [45-403](#)[, Idaho Code,] is entitled to the lien as provided therein for saw logs, spars, piles, cord wood and other timber, cut during the eight (8) months next preceding the filing of the claim, as provided in the next succeeding section.

[(45-406) 1893, p. 49, ch. 2, sec. 6; reen. 1899, p. 147, ch. 2, sec. 6; reen. R.C. & C.L., sec. 5130; C.S., sec. 7361; I.C.A., sec. 44-406.]

45-407. CLAIM OF LIEN FOR WORK OR LABOR. Every person, within sixty (60) days after the close of the rendition of the services, or after the close of the work or labor mentioned in sections [45-401](#) and [45-402](#), Idaho Code, claiming the benefit hereof, must file for record with the county recorder of the county in which such saw logs, spars, piles, cordwood or other timber was cut, or in which such lumber was manufactured, or, if removed to another county, then in such county, a notice of claim containing a statement of his demand, and the amount thereof, after deducting, as near as possible, all just credits and offsets, with the name of the person by whom he was employed. The notice of 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 notice of claim must be verified by the oath of himself, his agent or attorney, to the effect that the affiant believes the same to be true. Such notice of claim shall be substantially in the following form:

.... claimant, vs.

Notice is hereby given that of county, state of Idaho, claims a lien upon a of being about in quantity, which were cut in county, state of Idaho, 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, to wit: The said agreed to pay the said for such labor and assistance; that said contract has been faithfully 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 services was closed on the day of and days have not elapsed since that time; that the amount of claimant's demand for said services is; that no part thereof has been paid except, and there is now due and unpaid thereon, after deducting all just credits and offsets, the sum of, in which amount he claims a lien upon said

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

Subscribed and sworn to before me this day of,

[(45-407) 1893, p. 49, ch. 2, sec. 7; reen. 1899, p. 147, ch. 2, sec. 7; reen. R.C. & C.L., sec. 5131; C.S., sec. 7362; I.C.A., sec. 44-407; am. 2002, ch. 32, sec. 17, p. 55.]

45-408. CLAIM OF LIEN FOR PURCHASE PRICE. Every person mentioned in section [45-403](#)[, Idaho Code,] claiming the benefit hereof, must, within

ninety (90) days after such cutting, file for record with the county recorder of the county in which such saw logs, spars, piles, cord wood or other timber was cut, a claim in substance the same as provided in the next preceding section, and verified as therein provided.

[(45-408) 1893, p. 49, ch. 2, sec. 8; reen. 1899, p. 147, ch. 2, sec. 8; reen. R.C. & C.L., sec. 5132; C.S., sec. 7363; I.C.A., sec. 44-408.]

45-409. RECORD OF CLAIMS. The county recorder must record any claim filed under this chapter in a book kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed, and for which he may receive the same fees as are allowed by law for recording deeds or other instruments.

[(45-409) 1893, p. 49, ch. 2, sec. 9; reen. 1899, p. 147, ch. 2, sec. 9; reen. R.C. & C.L., sec. 5133; C.S., sec. 7364; I.C.A., sec. 44-409.]

45-410. DURATION OF LIEN. No lien provided for in this chapter binds any saw logs, spars, piles, cord wood or other timber, or any lumber, for a longer period than six (6) 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.

[(45-410) 1893, p. 49, ch. 2, sec. 10; reen. 1899, p. 147, ch. 2, sec. 10; reen. R.C. & C.L., sec. 5134; C.S., sec. 7365; I.C.A., sec. 44-410.]

45-411. RULES OF PRACTICE AND APPEALS. Except as otherwise provided in this chapter the provisions of this code relating to civil actions, new trials and appeals are applicable to, and constitute the rules of practice in the proceedings mentioned in this chapter.

[(45-411) 1893, p. 49, ch. 2, sec. 11; reen. 1899, p. 147, ch. 2, sec. 11; reen. R.C. & C.L., sec. 5135; C.S., sec. 7366; I.C.A., sec. 44-411.]

45-412. ENFORCEMENT AGAINST WHOLE OR PART OF PROPERTY. Any person who shall bring a civil action to enforce the lien as 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 a right to demand that such lien be enforced against the whole or any part of the saw logs, spars, piles, cord wood or other timber or manufactured lumber, upon which he has performed labor or which he has assisted in obtaining or securing, or which has been cut on his timber land during the eight (8) months mentioned in sections [45-405](#) and [45-406](#)[, Idaho Code], for all his labor upon, or for all his assistance in obtaining or securing, said logs, spars, piles, cord wood or other timber, or in manufacturing said lumber during the whole or any part of the eight (8) months mentioned in section [45-405](#)[, Idaho Code], or for timber cut during the whole or any part of the eight (8) months mentioned in section [45-406](#)[, Idaho Code].

[(45-412) 1893, p. 49, ch. 2, sec. 12; reen. 1899, p. 147, ch. 2, sec. 12; reen. R.C. & C.L., sec. 5136; C.S., sec. 7367; I.C.A., sec. 44-412.]

45-413. JOINDER OF ACTIONS -- FILING FEES AS COSTS -- ATTORNEY'S FEES. Any number of persons claiming liens against the same property under this chapter may join in the same action, and when separate actions are

commenced, the court may consolidate them. The court shall also, as part of the cost, allow the moneys paid for filing and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

[(45-413) 1893, p. 49, ch. 2, sec. 13; reen. 1899, p. 147, ch. 2, sec. 13; reen. R.C. & C.L., sec. 5137; C.S., sec. 7368; I.C.A., sec. 44-413.]

45-414. ENFORCEMENT OF JUDGMENTS -- APPORTIONMENT OF PROCEEDS. In such civil action judgments must be rendered in favor of each person having a lien for the amount due to him, 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 for the payment of each judgment pro rata, according to the amount of such judgment.

[(45-414) 1893, p. 49, ch. 2, sec. 14; reen. 1899, p. 147, ch. 2, sec. 14; reen. R.C. & C.L., sec. 5138; C.S., sec. 7369; I.C.A., sec. 44-414.]

45-415. PROPERTY MAY BE SOLD AS PERSONALTY. 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 the section next preceding, and the proceeds of such sale must be paid into court to be applied as in such section directed.

[(45-415) 1893, p. 49, ch. 2, sec. 15; reen. 1899, p. 147, ch. 2, sec. 15; reen. R.C. & C.L., sec. 5139; C.S., sec. 7370; I.C.A., sec. 44-415.]

45-416. INTERFERENCE WITH PROPERTY SUBJECT TO LIEN -- LIABILITY TO LIENHOLDER. Any person who shall injure, impair or destroy, or who shall render difficult, uncertain or impossible of identification, any saw logs, spars, piles, cord wood 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 lien, plus reasonable attorney's fees to be fixed by the court, which may be recovered by civil action against such person.

[(45-416) 1893, p. 49, ch. 2, sec. 16; reen. 1899, p. 147, ch. 2, sec. 16; reen. R.C. & C.L., sec. 5140; C.S., sec. 7371; am. 1923, ch. 156, sec. 1, p. 227; I.C.A., sec. 44-416.]

45-417. INTERFERENCE WITH PROPERTY SUBJECT TO LIEN -- PENALTY -- BOND. Any person or persons who shall, after the filing for record in the county recorder's office in the county of which said labor was performed, or in which said logs, spars, piles, cord wood or other timber are located, of a claim of lien as in this chapter provided, remove, dispose of, injure, impair or destroy or who shall render difficult, uncertain or impossible of identification any such saw logs, spars, piles, cord wood, or other timber products upon which there is a lien as herein provided, or any person or persons who shall aid or assist in doing any of the acts above prohibited shall be guilty of a misdemeanor and upon conviction may be imprisoned in the county jail for not more than six (6) months or shall be fined not less than \$100 nor more than \$300, or shall suffer both such fine and imprisonment in

the discretion of the court, unless prior to such removing, disposing of, injuring, impairing, or destroying, or rendering uncertain or impossible of identification, a bond in double the amount of the lien claim, said bond to be approved by the clerk of the district court and running to the lien claimant or claimants, the condition of said bond being that the owner of said logs or other timber products liened upon will pay any judgment, including costs and reasonable attorney fees to be assessed by the court, rendered in favor of such lien claimant or claimants, shall be filed with the county auditor of the county where said lien is filed or in lieu of said bond, as the case may be, deposit with said auditor a sum equal to double the amount claimed in said lien.

[(45-417) C.S., sec. 7371A, as added by 1923, ch. 156, sec. 2, p. 227; I.C.A., sec. 44-417.]