

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1824

By: Pope (Clay)

AS INTRODUCED

An Act relating to liens; providing for possessory and nonpossessory liens on animals for certain veterinarian services and supplies; authorizing certain sales; providing for notices; specifying contents; providing for liens for dishonored checks for services and supplies; providing for filing; protecting certain innocent purchasers; providing for priority; defining terms; providing for recording; providing for foreclosures; providing procedures; defining terms; making certain actions unlawful; requiring certain discharges; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 105 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. 1. Any veterinarian licensed in this state to practice veterinary medicine and surgery who, while lawfully in possession of an animal, renders any service to the owner thereof by furnishing medicines, medical services, board, food, material, labor or skill for the health, protection, improvement, or safekeeping of the

animal has a special lien thereon, dependent on possession, for the compensation, if any, which is due to such veterinarian from the owner of the animal.

2. Said lien may be foreclosed by a sale of such animal upon the notice and in the manner following:

a. The notice shall contain:

- (1) the names of the owner and any other party or parties who may claim any interest in said animal,
- (2) a description of the animal to be sold,
- (3) the nature of the medical services performed, board, supplies, or other material furnished, and the date thereof,
- (4) the time and place of sale, and
- (5) the name of the party, agent or attorney foreclosing such lien.

b. The notice shall be posted in three public places in the county where the animal is to be sold at least ten (10) days before the time therein specified for such sale, and a copy of said notice shall be mailed to the owner and any other party claiming any interest in said animal, if known, at their last-known post office address, by registered mail on the day of posting. Any party who claims any interest in said animal shall include owners of mortgages and conditional sales contracts as shown by the records in the office of the county clerk in the county where the lien is foreclosed.

c. The lienor or any other person may in good faith become a purchaser of the animal sold.

- d. Proceedings for foreclosure under this section shall not be commenced until thirty (30) days after said lien has accrued.
- B. 1. a. Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an animal on which he has a special lien created by subsection A of this section, which check or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon said animal.
- b. The person claiming such lien shall, within thirty (30) days from the date of dishonor of said check or other written order for payment of money, file in the office of the county clerk of the county in which the animal is situated a sworn statement that:
 - (1) the check or other written order for immediate payment of money, copy thereof being attached, was received for medical services, board, food, supplies, or other material for services to the animal for the owner thereof,
 - (2) the check or other written order was not paid, and
 - (3) the uttering of the check or other written order constituted the means for inducing him, one possessed of a special lien created by subsection A of this section upon the described animal, to deliver up the said animal.
- 2. a. Any veterinarian who renders service to the owner of an animal by furnishing medical services, board, food or material, labor, or skill for the protection, improvement, or safekeeping to such animal shall have a special lien on such animal pursuant to this section

if such animal is removed from the veterinarian's possession, without the written consent of the veterinarian or without payment for such service.

b. The person claiming such lien shall, within five (5) days of such nonauthorized removal, file in the office of the county clerk of the county in which the property is located, a sworn statement including:

- (1) that services were rendered on the animal by the person claiming such lien,
- (2) that the animal was in the possession of the person claiming the lien but such animal was removed without the written consent of the veterinarian,
- (3) an identifying description of the animal on which the service was rendered, and
- (4) that the debt for the services rendered on the animal was not paid. Provided, if the unpaid total amount of the debt for services rendered on the animal is unknown, an approximated amount of the debt due and owing shall be included in the sworn statement, but such approximated debt may be amended within thirty (30) days of such filing to reflect the actual amount of the debt due and owing.

3. The enforcement of said lien shall be within sixty (60) days after filing said lien in the manner provided by law for enforcing the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.

4. For purposes of this subsection:

- a. "possession" includes actual possession and constructive possession, and

- b. "constructive possession" means possession by a person who, although not in actual possession, does not have an intention to abandon the animal, knowingly has both power and the intention at a given time to exercise dominion or control over the animal, and who holds claim to such thing by virtue of some legal right.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 106 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. Whenever any person shall procure, contract with or hire any person licensed to practice veterinary medicine and surgery in this state to treat, relieve, board, feed, provide safekeeping or in any way take care of any kind of animal, such veterinarian shall have a nonpossessory lien upon such animal for the price agreed upon and, in case no price was agreed upon, for the reasonable value of the veterinarian's medical services, medicines, board, feed, supplies or safekeeping furnished.

B. 1. Except as otherwise provided by law, any veterinarian entitled to a lien pursuant to this section shall within sixty (60) days after last furnishing of medical services, material or supplies for the health, protection, improvement or safekeeping of the animal, file in the office of the county clerk of the county in which the animal is situated a statement in writing verified by oath, showing the amount of medical services, material or supplies furnished for the health, protection, improvement or safekeeping of the animal, the name of the person for, and by whom medical services, material or supplies were furnished.

2. If the veterinarian entitled to such lien does not file such statement within the time required by this section, the veterinarian shall be deemed to have waived his rights thereto.

3. The lien provided for in this section shall not attach to any animal after it has been purchased by an innocent purchaser for

value, and has passed into his possession unless the lien shall have been filed with the county clerk of the county before the animal was purchased by such purchaser, or he shall have received written notice, from the veterinarian entitled to the lien, of his intention to file the same.

4. The lien provided for in this section shall be subject to prior mortgage liens or possessory liens, unless the holder thereof has received notice of the intention of the furnishing of said medical services, material or supplies and consents thereto in writing after which the holder of such mortgage lien shall become jointly liable with the owner of said animal for such expense.

C. Immediately upon the receipt of such statement, the county clerk shall enter a record of the same in a book kept for that purpose, to be called the Animal Lien Journal, which shall be ruled off into separate columns, with headings as follows: "When filed", "Name of owner", "Name of claimant", "Amount claimed", and "Remarks", and the clerk shall make the proper entry in each column.

D. Said lien may be foreclosed by the sale of the animal so covered any time within twelve (12) months in the same manner provided by law for the foreclosure of chattel mortgages.

E. Any person selling, disposing of or removing an animal covered by such lien, without the written consent of the owner of such lien, upon conviction thereof, shall be guilty of a misdemeanor and shall be punishable by imprisonment in the county jail for not more than six (6) months or by a fine of not less than One Thousand Dollars (\$1,000.00).

F. It shall be the duty of the holder of the lien under this section, when the same is satisfied, to immediately file a notice of discharge thereof with the county clerk of the county wherein the lien is filed. Failure to do so shall subject the holder of the lien to a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00).

SECTION 3. This act shall become effective November 1, 1995.

45-1-5872

KSM