

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 419

By: Gumm

AS INTRODUCED

An Act relating to liens; creating lien for certain property by specified persons; establishing priority of lien; requiring filing certain statement within specified time period; defining term; specifying means of enforcement of certain lien; stating limitation on filing certain action; stating effect of certain notice; including specified costs in certain lien; requiring removal of certain records after stated time period; amending 42 O.S. 2001, Section 101, which relates to sale, disposal or removal of property covered by lien; conforming language; repealing 42 O.S. 2001, Sections 91, as amended by Section 1, Chapter 214, O.S.L. 2003, 92, 93, 94, 95, 96, 97, 98, as amended by Section 1, Chapter 409, O.S.L. 2003, 99, 100 and 102 (42 O.S. Supp. 2004, Sections 91 and 98), which relate to liens for work on personal property; 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 91.2 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. Any person who, at or with the owner's request or consent, performs work, makes repairs or improvements on, replaces, adds or installs equipment on any personal property or tows or stores any personal property, has a first and prior lien on such personal property for the total value of the services performed, including the reasonable value of all material used in the performance of such services and the reasonable value of all equipment replaced, added or installed.

B. If the lien claimant is in possession of the personal property for the purpose of having the work, repairs or improvements made, the equipment replaced, added or installed thereon, or towing

or storing, the lien shall be valid as long as the lien claimant retains possession of the personal property. The lien claimant shall retain the lien after releasing the personal property by filing within ninety (90) days a statement, under oath, of the items of the account, a description of the personal property on which the lien is claimed and the name of the owner of the personal property, with the county clerk in the county where the services were performed.

C. If the lien claimant was never in possession of the personal property, the lien claimant shall retain the lien by filing with the county clerk in the county where the services were performed, within ninety (90) days after the date work was last performed, material was last furnished in performing such work or making such repairs or improvements, equipment was last replaced, added or installed or the personal property was last towed or stored, a statement, under oath, of the items of the account, a description of the personal property on which the lien is claimed, the name of the owner of the personal property and the date upon which work was last performed, material was last furnished in performing such work or making such repairs or improvements, equipment was last replaced, added or installed, or the personal property was last towed or stored.

D. For purposes of this act, "personal property" includes, but is not limited to, automobiles, trucks, trailers, barges, aircraft, construction equipment and farm implements.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.3 of Title 42, unless there is created a duplication in numbering, reads as follows:

A lien granted under Section 1 of this act may be enforced and foreclosed in the same manner as security agreements pursuant to the Uniform Commercial Code. Any legal action taken by or on behalf of a lien claimant to enforce or foreclose any such lien filed in the office of the county clerk shall be commenced within one (1) year of

the date the lien was filed, or the lien shall be void. For purposes of this section, publication or delivery of a notice of sale under the Uniform Commercial Code shall constitute the commencement of legal action to enforce or foreclose a lien granted under Section 1 of this act. Reasonable attorney fees and legal expenses incurred by the lien claimant to claim, enforce and foreclose the lien granted under Section 1 of this act shall be included in the amount secured by such lien. After five (5) years from the date the lien was filed, the county clerk of the county where the lien is filed shall remove the lien from the records.

SECTION 3. AMENDATORY 42 O.S. 2001, Section 101, is amended to read as follows:

Section 101. Any person convicted of selling, disposing of or removing property covered by ~~such a lien,~~ under this act without the written consent of the owner of ~~such the~~ the 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 Hundred Dollars (\$100.00).

SECTION 4. REPEALER 42 O.S. 2001, Sections 91, as amended by Section 1, Chapter 214, O.S.L. 2003, 92, 93, 94, 95, 96, 97, 98, as amended by Section 1, Chapter 409, O.S.L. 2003, 99, 100 and 102 (42 O.S. Supp. 2004, Sections 91 and 98), are hereby repealed.

SECTION 5. This act shall become effective November 1, 2005.

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