

SB 1804

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THE STATE SENATE
Thursday, February 21, 2008

Senate Bill No. 1804
As Amended

SENATE BILL NO. 1804 - By: BASS of the Senate and ROAN of the House.

An Act relating to liens; establishing lien right for certain service; stating applicability of lien right; allowing storage fees; establishing procedures for certain lien; expanding applicability of certain lien; 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 50 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. Every wrecker service that provides wrecker services, accident site clean-up or storage of a vehicle for any person who suffers damage to his or her vehicle and asserts or maintains a claim against a tortfeasor or an insurer for the damage, shall have a lien for the amount due for such wrecker services, site clean-up and storage. The lien shall apply to any recovery or sum collected or to be collected by the damaged vehicle's owner, or by his or her heirs, personal representative, or next of kin in the event of his or her death, whether by judgment, settlement, or compromise. The lien shall be inferior to any lien or claim of any attorney handling the claim for or on behalf of the person or owner of the vehicle

1 damaged. Storage fees shall accrue daily in accordance with law
2 while said vehicle is required for resolution of a claim or disposed
3 of in an abandoned vehicle foreclosure sale.

4 B. No lien which is provided for in this section shall be
5 effective unless, before the payment of any monies to the damaged
6 vehicle's owner, his or her attorney, or legal representative as
7 compensation for such damage:

8 1. A written notice is sent setting forth an itemized statement
9 of the amount claimed, identifying the insurance policy or policies
10 or claim numbers against which the lien is asserted, if any, and
11 containing the name and address of the wrecker service claiming the
12 lien, the name and address of the damaged vehicle's owner or driver,
13 and the person or corporation against whom the claim is made, is
14 filed on the mechanic's and materialman's lien docket in the office
15 of the county clerk of the county where the principal office of the
16 wrecker service is located; and

17 2. The wrecker service sends, by registered or certified mail,
18 postage prepaid, a copy of such notice with a statement of the date
19 of filing thereof to the person or corporation against whom the
20 claim is made, **to any secured party whose lien is noted on the face**
21 **of the vehicle's certificate of title**, and to the owner of the
22 damaged vehicle. The wrecker service shall also send a copy of the

1 notice to the attorney for the owner of the damaged vehicle, if the
2 name and address of such attorney is known to the wrecker service.

3 C. The liens provided for in this section may be enforced by
4 civil action in the district court of the county where the lien was
5 filed. Such an action shall be brought within one (1) year after
6 the wrecker service becomes aware of final judgment, settlement or
7 compromise of the claim asserted or maintained by or on behalf of
8 the owner of the damaged vehicle. The practice, pleading, and
9 proceedings in the action shall conform to the rules prescribed by
10 the Oklahoma Pleading Code to the extent applicable.

11 SECTION 2. This act shall become effective November 1, 2008.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-19-08 - DO
13 PASS, As Amended and Coauthored.