

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 530

By: Burrage

4
5 AS INTRODUCED

6 An Act relating to agricultural liens; establishing
7 procedures for foreclosure upon certain lien;
8 specifying contents of certain notice; requiring
9 posting of certain notice at specified locations;
10 providing for mailing of certain notice; authorizing
11 certain persons to purchase certain property;
12 providing time restriction for certain proceedings;
13 defining terms; construing provisions; prohibiting
14 use of certain foreclosure method for certain
15 purpose; granting lien rights to certain persons;
16 establishing procedures for certain lien; providing
17 time limitation for enforcement of certain lien;
18 repealing 4 O.S. 2001, Section 194, which relates to
19 enforcement of lien; providing for codification; and
20 providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 194A of Title 4, unless there is
24 created a duplication in numbering, reads as follows:

A. A person who has a lien upon a domestic animal pursuant to
this title may foreclose upon the lien while lawfully in possession
of the animal.

B. The lien may be foreclosed by a sale of the domestic animal
upon notice which shall include:

1 1. The names of the owner and any other known party or parties
2 who claim any interest in the domestic animal;

3 2. A description of the domestic animal to be sold;

4 3. The nature of the work, labor or service performed, or the
5 materials or feed provided, any of which resulted in the creation of
6 the lien, and the value of the work, labor, services, materials or
7 feed;

8 4. The time and place of sale; and

9 5. The name of the party, agent or attorney foreclosing the
10 lien. If the claimant is a business, the name of the contact person
11 shall be shown. In place of an original signature and notary seal,
12 a digital or electronic signature or seal shall be accepted.

13 C. The notice may relate to and contain information for more
14 than one domestic animal or lien, provided that the information
15 required pursuant to subsection B of this section is provided for
16 each domestic animal or lien.

17 D. The notice shall be posted in three public places in the
18 county where the property is to be sold at least ten (10) days
19 before the time specified for such sale, and shall be mailed to the
20 owner and any other party who claims any interest in the domestic
21 animal, at the last-known post office address, by certified mail.
22 The mailing shall occur at least ten (10) days before the time
23 specified for the sale.

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1 E. The lienor or any other person may in good faith become a
2 purchaser of the property sold.

3 F. Proceedings for foreclosure under this section shall not be
4 commenced until thirty (30) days after the lien has accrued, except
5 as otherwise provided in the laws of this state.

6 G. For purposes of this section:

7 1 "Constructive possession" means possession by a person who,
8 although not in actual possession, does not have an intention to
9 abandon property, who knowingly has both the power and the intent at
10 a given time to exercise dominion or control over the property, and
11 who holds claim to the property pursuant to a legal right;

12 2. "Commercially reasonable sale" shall include, but not be
13 limited to, any auction which members of the public may attend and
14 bid;

15 3. A "party who claims any interest in the domestic animal"
16 shall include:

- 17 a. all owners of the domestic animal,
- 18 b. any secured party who has a properly perfected lien in
19 accordance with the laws of this state, and
- 20 c. any other person having any interest in the domestic
21 animal, of whom the claimant has actual notice; and

22 4. "Possession" shall include actual possession and
23 constructive possession;

1 H. The method described in this section for foreclosing upon a
2 lien is in addition to, and not exclusive of, any other method under
3 the laws of this state by which the lien may be properly foreclosed.

4 I. Nothing in this section shall be construed to create any new
5 lien rights or limit any existing lien rights provided under the
6 laws of this state; provided, however, this act shall not apply to
7 liens created pursuant to Section 156 of this title.

8 J. Notwithstanding the provisions of this section, the method
9 of foreclosing upon a lien set forth in this section shall not be
10 used for any lien created pursuant to Section 156 of this title.

11 K. Any person who is induced by means of a check or other form
12 of written order for immediate payment of money to deliver
13 possession of a domestic animal on which the person has a lien
14 created by subsection A of this section, which check or other
15 written order is dishonored or is not paid when presented, shall
16 have a lien for the amount thereof upon the personal property.

17 1. The person claiming such lien shall, within thirty (30) days
18 from the date of dishonor of the check or other written order for
19 payment of money, file an Effective Financing Statement pursuant to
20 Sections 1-9-320.1 through 1-9-320.7 of Title 12A of the Oklahoma
21 Statutes or a financing statement pursuant to Section 1-9-501 of
22 Title 12A of the Oklahoma Statutes, as applicable to the personal
23 property, along with a sworn statement that:

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- 1 a. the check or other written order for immediate payment
2 of money, copy thereof being attached, was received
3 for feeding, furnishing feed, or keeping a domestic
4 animal,
5 b. the check or other written order was not paid, and
6 c. the uttering of the check or other written order
7 constituted the means for inducing the person, one
8 possessed of a special lien created by subsection A of
9 this section upon the described domestic animal, to
10 deliver up the domestic animal.

11 G. Any person who renders service to the owner of a domestic
12 animal by feeding, furnishing feed, or keeping a domestic animal
13 shall have a lien on such domestic animal pursuant to this section
14 if such property is removed from the person's possession, without
15 such person's written consent or without payment for such service.

16 1. The person claiming such lien shall, within thirty (30) days
17 of such non-authorized removal, file an Effective Financing
18 Statement pursuant to Sections 1-9-320.1 through 1-9-320.7 of Title
19 12A of the Oklahoma Statutes or a financing statement pursuant to
20 Section 1-9-501 of Title 12A of the Oklahoma Statutes, as applicable
21 to the personal property, along with a sworn statement including:

- 22 a. that services were rendered on or in relation to the
23 domestic animal by the person claiming the lien,
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1 b. that the domestic animal was in the possession of the
2 person claiming the lien but the domestic animal was
3 removed without the person's consent,

4 c. an identifying description of the domestic animal on
5 or in relation to which the service was rendered, and

6 d. that the debt for the services rendered on or in
7 relation to the domestic animal was not paid.

8 Provided, if the unpaid total amount of the debt for
9 services rendered on or in relation to the domestic
10 animal is unknown, an approximated amount of the debt
11 shall be included in the sworn statement. The
12 approximated debt may be amended within thirty (30)
13 days of filing to reflect the actual amount of the
14 debt.

15 2. The enforcement of the lien shall be within one hundred
16 twenty (120) days after filing the lien in the manner provided by
17 law for enforcing the lien of a security agreement and provided that
18 the lien shall not affect the rights of innocent, intervening
19 purchasers without notice.

20 SECTION 2. REPEALER 4 O.S. 2001, Section 194, is hereby
21 repealed.

22 SECTION 3. This act shall become effective November 1, 2011.

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