

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 582

By: Brinkley of the Senate

3 and

4 Quinn of the House

5  
6  
7  
8 [ service liens on personal property - foreclosure  
9 proceedings and notice - modifying requirements -  
creating felony offense - effective date ]

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11 AMENDMENT NO. 1. Page 1, line 10, strike the enacting clause

12 Passed the House of Representatives the 22nd day of April, 2013.

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\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

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17 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2013.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE  
2 BILL NO. 582

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6 [ service liens on personal property - foreclosure  
7 proceedings and notice - modifying requirements -  
8 creating felony offense - effective date ]  
9

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

11 SECTION 1. AMENDATORY 42 O.S. 2011, Section 91, is  
12 amended to read as follows:

13 Section 91. A. 1. This section applies to every vehicle, all-  
14 terrain vehicle, utility vehicle, manufactured home, motorcycle,  
15 boat, outboard motor, or trailer that has a certificate of title  
16 issued by the Oklahoma Tax Commission or by a federally recognized  
17 Indian tribe in the State of Oklahoma, except as otherwise provided  
18 in subsection D of this section. This section does not apply to  
19 farm equipment as defined in Section 91.2 of this title. The items  
20 of personal property to which this section applies are collectively  
21 referred to as "Section 91 Personal Property". If personal property  
22 is apparently covered both by this section and by Sections 191  
23 through 200 of this title, the procedures set out in this section  
24 shall apply instead of Sections 191 through 200.

1           2. Any person who, while lawfully in possession of an article  
2 of Section 91 Personal Property, renders any service to the owner  
3 thereof by furnishing storage, rental space, material, labor or  
4 skill for the protection, improvement, safekeeping, towing, right to  
5 occupy space, storage or carriage thereof, has a special lien  
6 thereon, dependent on possession, for the compensation, if any,  
7 which is due to such person from the owner for such service.

8           3. This special lien shall be subordinate to any perfected  
9 security interest unless the claimant complies with the requirements  
10 of this section.

11           4. Any person claiming the special lien provided in paragraph 2  
12 of this subsection shall ~~mail a notice of such lien, no later than~~  
13 ~~sixty (60) days after the first services are rendered, by regular,~~  
14 ~~first class United States mail, and by certified mail, submit a~~  
15 request to the Oklahoma Tax Commission for notice of lien to be sent  
16 to all interested parties who reside at separate locations, no later  
17 than forty-five (45) days after the first services are rendered.

18 (If services provided are pursuant to a contract primarily for the  
19 purpose of storage or rental of space, the beginning date of the  
20 ~~sixty-day~~ forty-five-day period provided in the previous sentence  
21 shall be the first day of the first period or partial period for  
22 which rental or storage charges remain unpaid.) ~~The notice shall be~~  
23 ~~in writing and shall contain, but not be limited to, the following:~~  
24 The request shall be in writing on a form developed by the

1 Commission and shall include such information as is needed to  
2 satisfy the notice requirements of paragraph 5 of this subsection.  
3 The request shall be accompanied by a fee sufficient to cover the  
4 cost of processing and mailing, but in no event greater than Thirty-  
5 five Dollars (\$35.00). The claimant may add the amount of such fee  
6 to the special possessory lien.

7 5. Upon receipt of request to send notice of lien as provided  
8 in paragraph 4 of this subsection, the Commission or its agent shall  
9 mail a notice of such lien within three (3) business days by  
10 regular, first class United States mail, and by certified mail,  
11 return receipt requested, to all interested parties who reside at  
12 separate locations. The notice shall be in writing and shall  
13 contain, but not be limited to:

- 14 a. a statement that the notice is a notice of a
- 15 possessory lien,
- 16 b. the complete legal name, physical and mailing address,
- 17 and telephone number of the claimant,
- 18 c. the complete legal name, physical and mailing address
- 19 of the person who requested that the claimant render
- 20 service to the owner by furnishing material, labor or
- 21 skill, storage, or rental space, or the date the
- 22 property was abandoned if the claimant did not render
- 23 any other service,
- 24

- 1           d. a description of the article of personal property,  
2           including a photograph if the property is a motor  
3           vehicle, and the complete physical and mailing address  
4           of the location of the article of personal property,  
5           e. an itemized statement describing the date or dates the  
6           labor or services were performed and material  
7           furnished, and the amount of the compensation claimed,  
8           f. a statement by the claimant that the materials, labor  
9           or skill furnished, or arrangement for storage or  
10           rental of space, was authorized by the owner of the  
11           personal property and was in fact provided or  
12           performed, or that the property was abandoned by the  
13           owner if the claimant did not render any other  
14           service, and that storage or rental fees will accrue  
15           as allowed by law, ~~and~~  
16           g. the signature of the claimant which shall be notarized  
17           and, if applicable, the signature of the claimant's  
18           attorney. If the claimant is a business, then the  
19           name of the contact person must be shown. In place of  
20           an original signature and notary seal, a digital or  
21           electronic signature or seal shall be accepted, and  
22           h. a statement informing the interested party of the  
23           right to a hearing regarding validity of the special  
24           lien in accordance with paragraph 14 of this

1                    subsection. The statement shall include procedures to  
2                    request such a hearing.

3            ~~5.~~ 6. For services rendered or vehicles abandoned on or after  
4 November 1, 2005, storage charges or charges for rental of space  
5 (unless agreed to by contract as part of an overall transaction or  
6 arrangement that was primarily for the purpose of storage of the  
7 Section 91 Personal Property or rental of space) may only be  
8 assessed beginning with the day that the Notice of Possessory Lien  
9 is mailed as evidenced by certified mail. Provided, however, in the  
10 case of contractual charges incurred for storage or rental of space  
11 in an overall transaction primarily for the purpose of storage or  
12 rental, charges subject to the special lien may only be assessed  
13 beginning with a date not more than ~~sixty (60)~~ forty-five (45) days  
14 prior to the day that the Notice of Possessory Lien is mailed, and  
15 shall accrue only at the regular periodic rate for storage or rental  
16 as provided in the contract, adjusted for partial periods of storage  
17 or rental. The maximum allowable compensation for storage shall not  
18 exceed the fees established by the Corporation Commission for  
19 nonconsensual tows.

20            ~~6.~~ 7. The lien may be foreclosed by a sale of such personal  
21 property upon the notice and in the manner ~~following:~~ described in  
22 this paragraph. A person desiring to foreclose on such lien shall  
23 submit a request to the Oklahoma Tax Commission for notice of sale  
24 to be sent to all interested parties. Such request shall be in

1 writing on a form developed by the Commission, and shall be  
2 submitted no sooner than twenty (20) days but no later than thirty  
3 (30) days after notice of lien as evidenced by certified mail, or  
4 conclusion of final hearing, if any. The request shall include such  
5 information as is needed to satisfy the notice requirements of  
6 paragraph 8 of this subsection. The request shall be accompanied by  
7 a fee sufficient to cover the cost of processing and mailing, but in  
8 no event greater than Thirty-five Dollars (\$35.00). The claimant  
9 may add the amount of the fee to the special possessory lien.

10 8. Upon receipt of request for notice of sale to be sent as  
11 provided in paragraph 7 of this subsection, the Commission or its  
12 agent shall mail a notice of such sale within three (3) business  
13 days by regular, first class United States mail, and by certified  
14 mail, return receipt requested, to all interested parties who reside  
15 at separate locations. The notice of sale shall be in writing and  
16 shall contain, but not be limited to:

- 17 a. a statement that the notice is a Notice of Sale,
- 18 b. the names of all interested parties known to the  
19 claimant,
- 20 c. a description of the property to be sold, including a  
21 photograph if the property is a motor vehicle,
- 22 d. a notarized statement of the nature of the work, labor  
23 or service performed, material furnished, or storage  
24 or rental of space, and the date thereof, and the name

1 of the person who authorized the work, labor or  
2 service performed, or the storage or rental  
3 arrangement, or that the property was abandoned if the  
4 claimant did not render any other service,

5 e. the date, time and exact physical location of sale,  
6 and

7 f. the name, complete physical address and telephone  
8 number of the party foreclosing such lien. If the  
9 claimant is a business, then the name of the contact  
10 person must be shown. In place of an original  
11 signature and notary seal, a digital or electronic  
12 signature or seal shall be accepted, and

13 g. a statement informing the interested party of the  
14 right to a hearing regarding validity of the special  
15 lien or sale in accordance with paragraph 14 of this  
16 subsection. The statement shall include procedures to  
17 request such a hearing.

18 ~~7. Such~~ 9. The Commission or its agent shall cause such notice  
19 of sale ~~shall~~ to be posted in ~~three~~ two public places in the county  
20 where the property is to be sold at least ~~ten (10)~~ twenty (20) days  
21 before the time therein specified for such sale, ~~and.~~ The  
22 Commission or its agent shall mail a copy of the notice ~~shall be~~  
23 ~~mailed~~ to all interested parties at their last-known post office  
24 address, ~~by~~ regular, first class United States mail and by certified

1 mail, return receipt requested, on the day of posting. If the item  
2 of personal property is a manufactured home, notice shall also be  
3 sent by certified mail to the county treasurer and to the county  
4 assessor of the county where the manufactured home is located.

5 ~~8.~~ 10. Interested parties shall include all owners of the  
6 article of personal property as indicated by the certificate of  
7 title issued by the Oklahoma Tax Commission or by a federally  
8 recognized Indian tribe in the State of Oklahoma; lien debtors, if  
9 any, other than the owners; any lienholder whose lien is noted on  
10 the face of the certificate of title; and any other person having  
11 any interest in the article of personal property, of whom the  
12 claimant has actual notice.

13 ~~9.~~ 11. Any interested party shall be permitted to inspect and  
14 verify the services rendered by the claimant prior to the sale of  
15 the article of personal property during normal business hours,  
16 unless the property was abandoned and the claimant did not render  
17 any other service.

18 ~~10.~~ 12. The claimant or any other person may in good faith  
19 become a purchaser of the property sold.

20 ~~11.~~ 13. Proceedings for foreclosure under this act shall be  
21 commenced ~~within thirty (30) days after the Notice of Possessory~~  
22 ~~Lien has been mailed as evidenced by certified mail~~ no sooner than  
23 twenty (20) days and no later than thirty (30) days after notice of  
24 lien as evidenced by certified mail or conclusion of final hearing,

1 if any. The date actually sold shall be within sixty (60) days from  
2 the date of the Notice of Sale as evidenced by certified mail. Such  
3 foreclosure sale shall not occur until all requested hearings, if  
4 any, have been resolved, or until claimant has received notification  
5 from the Commission, in accordance with paragraph 14 of this  
6 subsection that a hearing is not requested.

7 14. Upon receipt of Notice of Lien or Notice of Sale pursuant  
8 to this subsection, any interested party is entitled to a hearing  
9 regarding the validity of the lien or sale. To preserve the right  
10 to a hearing, the interested party shall submit a written request to  
11 the Commission within fifteen (15) days of the date of Notice of  
12 Lien or Notice of Sale, as evidenced by certified mail. Within five  
13 (5) days of receipt of such written request for hearing, the  
14 Commission shall schedule the hearing and provide written notice to  
15 the claimant and interested parties. If a hearing is not requested  
16 in response to a notice of lien or notice of sale, the Commission  
17 shall notify claimant of that fact within twenty (20) days of the  
18 notice of sale, as evidenced by certified mail.

19 B. 1. a. Any person who is induced by means of a check or other  
20 form of written order for immediate payment of money  
21 to deliver up possession of an article of personal  
22 property on which the person has a special lien  
23 created by subsection A of this section, which check  
24 or other written order is dishonored, or is not paid

1 when presented, shall have a lien for the amount  
2 thereof upon the personal property.

3 b. The person claiming such lien shall, within thirty  
4 (30) days from the date of dishonor of the check or  
5 other written order for payment of money, file in the  
6 office of the county clerk of the county in which the  
7 property is situated a sworn statement that:

8 (1) the check or other written order for immediate  
9 payment of money, copy thereof being attached,  
10 was received for labor, material or supplies for  
11 producing or repairing an article of personal  
12 property, or for other specific property-related  
13 services covered by this section,

14 (2) the check or other written order was not paid,  
15 and

16 (3) the uttering of the check or other written order  
17 constituted the means for inducing the person,  
18 one possessed of a special lien created by  
19 subsection A of this section upon the described  
20 article of personal property, to deliver up the  
21 said article of personal property.

22 2. a. Any person who renders service to the owner of an  
23 article of personal property by furnishing storage,  
24 rental space, material, labor, or skill for the

1 protection, improvement, safekeeping, towing, right to  
2 occupy space, storage, or carriage thereof shall have  
3 a special lien on such property pursuant to this  
4 section if such property is removed from the person's  
5 possession, without such person's written consent or  
6 without payment for such service.

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

11 (1) that services were rendered on or in relation to  
12 the article of personal property by the person  
13 claiming such lien,

14 (2) that the property was in the possession of the  
15 person claiming the lien but such property was  
16 removed without his or her written consent,

17 (3) an identifying description of the article of  
18 personal property on which the service was  
19 rendered, and

20 (4) that the debt for the services rendered on or in  
21 relation to the article of personal property was  
22 not paid. Provided, if the unpaid total amount  
23 of the debt for services rendered on or in  
24 relation to the article of personal property is

1 unknown, an approximated amount of the debt due  
2 and owing shall be included in the sworn  
3 statement but such approximated debt may be  
4 amended within thirty (30) days of such filing to  
5 reflect the actual amount of the debt due and  
6 owing.

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

12 4. If a person claiming a special lien pursuant to this section  
13 fails to substantially comply with any of the requirements of this  
14 section, any interested party may proceed against the person  
15 claiming such lien for all damages arising therefrom, including  
16 conversion, if the article of personal property has been sold. If  
17 the notice or notices required by this section shall be shown to be  
18 knowingly false or fraudulent, the interested party shall be  
19 entitled to treble damages. The prevailing party shall be entitled  
20 to all costs, including a reasonable attorney fee.

21 C. If the person who renders service to the owner of an article  
22 of personal property to which this section applies relinquishes or  
23 loses possession of the article due to circumstances described in  
24 subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of

1 subsection B of this section, the person claiming the lien shall be  
2 entitled to possession of the article until the amount due is paid,  
3 unless the article is possessed by a person who became a bona fide  
4 purchaser. Entitlement to possession shall be in accordance with  
5 the following:

6 1. The claimant may take possession of an article pursuant to  
7 this subsection only if the person obligated under the contract for  
8 services has signed an acknowledgement of receipt of a notice that  
9 the article may be subject to repossession. The notice and  
10 acknowledgement pursuant to this subsection shall be:

11 a. in writing and separate from the written contract for  
12 services, or

13 b. printed on the written contract for services, credit  
14 agreement or other document which displays the notice  
15 in bold-faced, capitalized and underlined type, or is  
16 separated from surrounding written material so as to  
17 be conspicuous with a separate signature line;

18 2. The claimant may require the person obligated under the  
19 contract for services to pay the costs of repossession as a  
20 condition for reclaiming the article only to the extent of the  
21 reasonable fair market value of the services required to take  
22 possession of the article;

23 3. The claimant shall not transfer to a third party or to a  
24 person who performs repossession services, a check, money order, or

1 credit card transaction that is received as payment for services  
2 with respect to an article and that is returned to the claimant  
3 because of insufficient funds or no funds, because the person  
4 writing the check, issuing the money order, or credit cardholder has  
5 no account or because the check, money order, or credit card account  
6 has been closed. A person violating this paragraph shall be guilty  
7 of a misdemeanor; and

8 4. An article that is repossessed pursuant to this subsection  
9 shall be promptly delivered to the location where the services were  
10 performed. The article shall remain at the services location at all  
11 times until the article is lawfully returned to the record owner or  
12 a lienholder or is disposed of pursuant to this section.

13 D. 1. If a vehicle, all-terrain vehicle, utility vehicle,  
14 manufactured home, motorcycle, boat, outboard motor, or trailer has  
15 a certificate of title issued by the Oklahoma Tax Commission or by a  
16 federally recognized Indian tribe in the State of Oklahoma, but  
17 there is no active lien recorded on the certificate of title,  
18 Section 91A of this title will apply instead of this section.  
19 Likewise, if there is an active lien recorded on the certificate of  
20 title but the lien is over fifteen (15) years old and the property  
21 is not a manufactured home, Section 91A will apply instead of this  
22 section.

23 2. If personal property that otherwise would be covered by this  
24 section has been registered by the Oklahoma Tax Commission or by a

1 federally recognized Indian tribe in the State of Oklahoma, and  
2 there is a lien of record but no certificate of title has been  
3 issued, Section 91A of this title will apply instead of this  
4 section.

5 3. If personal property otherwise would be covered by this  
6 section, but the services were rendered or the property was  
7 abandoned prior to November 1, 2005, Section 91A of this title will  
8 apply instead of this section.

9 4. Salvage pools as defined in Section 591.2 of Title 47 of the  
10 Oklahoma Statutes and class AA licensed wrecker operators in their  
11 capacity as wrecker operators shall not be subject to the provisions  
12 of this section. Salvage pools as defined in Section 591.2 of Title  
13 47 of the Oklahoma Statutes and class AA licensed wrecker operators  
14 shall be subject to Section 91A of this title.

15 E. For purposes of this section:

16 1. "Possession" includes actual possession and constructive  
17 possession; and

18 2. "Constructive possession" means possession by a person who,  
19 although not in actual possession, does not have an intention to  
20 abandon property, knowingly has both power and the intention at a  
21 given time to exercise dominion or control over the property, and  
22 who holds claim to such thing by virtue of some legal right.

23 F. A person who knowingly makes a false statement of a material  
24 fact in a proceeding under this section, or attempts to use or uses

1 the provisions of this section to foreclose an owner or lienholder's  
2 interest in a vehicle knowing that any of the statements made in the  
3 proceeding are false, upon conviction, shall be guilty of a felony.

4 SECTION 2. AMENDATORY 42 O.S. 2011, Section 91A, is  
5 amended to read as follows:

6 Section 91A.

7 A. 1. a. This section applies to all types of personal property  
8 other than:

9 (1) farm equipment as defined in Section 91.2 of this  
10 title, and

11 (2) "Section 91 Personal Property" as defined in  
12 Section 91 of this title.

13 b. This section applies to any vehicle, all-terrain  
14 vehicle, utility vehicle, manufactured home,  
15 motorcycle, boat, outboard motor, or trailer that is  
16 excluded from coverage under subsection A of Section  
17 91 of this title because the personal property:

18 (1) does not have a certificate of title, or  
19 (2) has a certificate of title but does not have an  
20 active lien recorded on the certificate of title,  
21 or

22 (3) has a certificate of title that is not issued by  
23 the Oklahoma Tax Commission or by a federally  
24

1                    recognized Indian tribe in the State of Oklahoma,  
2                    or

3                    (4) is otherwise excluded by subsection D of Section  
4                    91 of this title.

5                    c. If personal property has a certificate of title, or  
6                    would be required to have a certificate of title under  
7                    Oklahoma law, and is apparently covered both by this  
8                    section and by Sections 191 through 200 of this title,  
9                    the procedures set out in this section shall apply  
10                   instead of Sections 191 through 200 of this title. If  
11                   personal property without a certificate of title and  
12                   not required to be titled under Oklahoma law is  
13                   covered both by this section and Sections 191 through  
14                   200 of this title, the procedures set out in Sections  
15                   191 through 200 of this title shall apply instead of  
16                   this section.

17                   2. Any person who, while lawfully in possession of an article  
18 of personal property to which this section applies, renders any  
19 service to the owner thereof by furnishing storage, rental space,  
20 material, labor or skill for the protection, improvement,  
21 safekeeping, towing, right to occupy space, storage or carriage  
22 thereof, has a special lien thereon, dependent on possession, for  
23 the compensation, if any, which is due to such person from the owner  
24 for such service. Charges owed under a contract primarily for the

1 purpose of storage or rental of space shall be accrued only at the  
2 regular periodic rate for storage or rental as provided in the  
3 contract, adjusted for partial periods of storage or rental.

4 3. The lien may be foreclosed by a sale of such personal  
5 property upon the notice and in the manner ~~following: The notice~~  
6 ~~shall contain:~~ described in this paragraph. Any person desiring to  
7 foreclose the lien shall submit a request to the Oklahoma Tax  
8 Commission for notice of sale to be sent to all interested parties.  
9 Such request shall be in writing on a form developed by the  
10 Commission, and shall be submitted not later than forty-five (45)  
11 days after the lien has accrued. The request shall include such  
12 information as is needed to satisfy the notice requirements of  
13 paragraph 4 of this subsection. The request shall be accompanied by  
14 a fee sufficient to cover the cost of processing and mailing, but in  
15 no event greater than Thirty-five Dollars (\$35.00). The claimant  
16 may add the amount of the fee to the special possessory lien.

17 4. Upon receipt of request for notice of sale to be sent as  
18 provided in paragraph 3 of this subsection, the Commission or its  
19 agent shall mail a notice of such sale within six (6) business days  
20 by regular, first class United States mail, and by certified mail,  
21 return receipt requested, to all interested parties who reside at  
22 separate locations. The notice shall be in writing and shall  
23 contain, but not be limited to:

- 1 a. the names of the owner and any other known party or  
2 parties who may claim any interest in the property,  
3 b. a description of the property to be sold, including a  
4 photograph if the property is a motor vehicle,  
5 c. the nature of the work, labor or service performed,  
6 material furnished, or the storage or rental  
7 arrangement, and the date thereof,  
8 d. the time and place of sale, ~~and~~  
9 e. the name of the party, agent or attorney foreclosing  
10 such lien. If the claimant is a business, then the  
11 name of the contact person must be shown. In place of  
12 an original signature and notary seal, a digital or  
13 electronic signature or seal shall be accepted, and  
14 f. a statement informing the interested party of the  
15 right to a hearing regarding validity of the special  
16 lien in accordance with paragraph 9 of this  
17 subsection. The statement shall include procedures to  
18 request such a hearing.

19 ~~4.~~

- 20 5. a. ~~Such~~ The Commission or its agent shall cause such  
21 notice shall of sale to be posted in three two public  
22 places in the county where the property is to be sold  
23 at least ~~ten (10)~~ twenty (20) days before the time  
24 therein specified for such sale, ~~and~~ The Commission

1           or its agent shall mail a copy of the notice ~~shall be~~  
2           mailed to the owner and any other party claiming any  
3           interest in the property if known, at their last-known  
4           post office address, by certified mail, return receipt  
5           requested, on the day of posting. If the item of  
6           personal property is a manufactured home, notice shall  
7           also be sent by certified mail to the county treasurer  
8           and to the county assessor of the county where the  
9           manufactured home is located.

10          b. In the case of any item of personal property without a  
11           certificate of title and not required to be titled  
12           under Oklahoma law, a party who claims any interest in  
13           the property shall include all owners of the property;  
14           any secured party who has an active financing  
15           statement on file with the county clerk of Oklahoma  
16           County listing one or more owners of the property by  
17           legal name as debtors and indicating a collateral  
18           description that would include the property; and any  
19           other person having any interest in the personal  
20           property, of whom the claimant has actual notice.

21          c. In the case of personal property subject to this  
22           section for which a certificate of title has been  
23           issued by any jurisdiction, a party who claims any  
24           interest in the property shall include all owners of

1 the article of personal property as indicated by the  
2 certificate of title; lien debtors, if any, other than  
3 the owners; any lienholder whose lien is noted on the  
4 face of the certificate of title; and any other person  
5 having any interest in the article of personal  
6 property, of whom the claimant has actual notice.

7 d. When the jurisdiction of titling for a vehicle, all-  
8 terrain vehicle, motorcycle, boat, outboard motor, or  
9 trailer that is five (5) model years old or newer, or  
10 a manufactured home that is fifteen (15) model years  
11 old or newer, cannot be determined by ordinary means,  
12 the claimant, the agent of the claimant, or the  
13 attorney of the claimant, shall request, in writing,  
14 that the Oklahoma Tax Commission Motor Vehicle  
15 Division ascertain the jurisdiction where the vehicle  
16 or manufactured home is titled. The Oklahoma Tax  
17 Commission Motor Vehicle Division shall, within  
18 fourteen (14) days from the date the request is  
19 received, provide information as to the jurisdiction  
20 where the personal property is titled. If the  
21 Oklahoma Tax Commission Motor Vehicle Division is  
22 unable to provide the information, it shall provide  
23 notice that the record is not available.

1 e. When personal property is of a type that Oklahoma law  
2 requires to be titled, the owner of record of that  
3 property is unknown, and the jurisdiction of titling  
4 and owner of record cannot be determined by ordinary  
5 means (and also, if applicable, cannot be determined  
6 in accordance with the preceding subparagraph), then  
7 the special lien may be foreclosed by publication of a  
8 legal notice in a legal newspaper in the county where  
9 the personal property is located, as defined in  
10 Section 106 of Title 25 of the Oklahoma Statutes.  
11 Such notice shall include the description of the  
12 property by year, make, vehicle identification number  
13 (if available from the property), the name of the  
14 individual who may be contacted for information, and  
15 the telephone number of that person or the address  
16 where the vehicle is located. The legal notice shall  
17 be published once per week for three (3) consecutive  
18 weeks. As soon as circumstances exist as described in  
19 the first sentence of this subparagraph, the first  
20 date of publication may occur. The first date  
21 available for public sale of the vehicle is the day  
22 following publication of the final notice. When the  
23 owner of record is unknown, the Notice of Sale  
24 nevertheless must be completed and mailed to any known

1 interested party by certified mail. For purposes of  
2 this paragraph, interested parties shall include all  
3 persons described in subparagraph b or subparagraph c  
4 of this paragraph, whichever is applicable, with the  
5 exception of any owner who is unknown. Except in  
6 circumstances described in paragraph 7 of this  
7 subsection that provide for a shorter time period, the  
8 Notice of Sale shall be posted in three public places  
9 in the county where the property is to be sold at  
10 least ten (10) days before the time therein specified  
11 for such sale, and the Notice of Sale shall not be  
12 mailed until at least thirty (30) days after said lien  
13 has accrued.

14 ~~5.~~ 6. The lienor or any other person may in good faith become a  
15 purchaser of the property sold.

16 ~~6.~~ 7. Proceedings for foreclosure under this act shall ~~not~~ be  
17 commenced ~~until~~ no sooner than thirty (30) days and no later than  
18 forty-five (45) days after said lien has accrued, except as provided  
19 elsewhere in Oklahoma law. The date actually sold shall be no  
20 sooner than twenty (20) days and no later than sixty (60) days from  
21 the date of the Notice of Sale as evidenced by certified mail. Such  
22 foreclosure sale shall not occur until all requested hearings, if  
23 any, have been resolved, or until claimant has received notification  
24

1 from the Commission, in accordance with subparagraph c of paragraph  
2 9 of this subsection that a hearing is not requested.

3 ~~7.~~ 8. Notwithstanding any other provision of law, proceedings  
4 for foreclosures for the storage of junk vehicles towed and stored  
5 pursuant to Section 955 of Title 47 of the Oklahoma Statutes by  
6 Class AA wreckers listed with the Motor Vehicle Division of the  
7 Department of Public Safety, may be commenced five (5) days after  
8 the lien has accrued. For purposes of this paragraph, "junk  
9 vehicles" means any vehicle that is more than ten (10) years old if  
10 the cost of a comparable vehicle would be less than Three Hundred  
11 Dollars (\$300.00) as quoted in the latest edition of the National  
12 Automobile Dealers Association Official Used Car Guide or latest  
13 monthly edition of any other nationally recognized published  
14 guidebook, adjusting to the condition of the vehicle.

15 9. Upon receipt of Notice of Sale pursuant to this subsection,  
16 any interested party is entitled to a hearing regarding the validity  
17 of the lien or sale. To preserve the right to a hearing, the  
18 interested party shall submit a written request to the Commission  
19 within fifteen (15) days of the date of Notice of Sale, as evidenced  
20 by certified mail. Within five (5) days of receipt of such written  
21 request for hearing, the Commission shall schedule the hearing and  
22 provide written notice to the claimant and interested parties. If a  
23 hearing is not requested in response to a notice of sale, the

1 Commission shall notify claimant of that fact within twenty (20)  
2 days of the notice of sale, as evidenced by certified mail.

3 B. 1. a. Any person who is induced by means of a check or other  
4 form of written order for immediate payment of money  
5 to deliver up possession of an article of personal  
6 property on which the person has a special lien  
7 created by subsection A of this section, which check  
8 or other written order is dishonored, or is not paid  
9 when presented, shall have a lien for the amount  
10 thereof upon the personal property.

11 b. The person claiming such lien shall, within thirty  
12 (30) days from the date of dishonor of the check or  
13 other written order for payment of money, file in the  
14 office of the county clerk of the county in which the  
15 property is situated a sworn statement that:

16 (1) the check or other written order for immediate  
17 payment of money, copy thereof being attached,  
18 was received for labor, material or supplies for  
19 producing or repairing an article of personal  
20 property, or for other specific property-related  
21 services covered by this section,

22 (2) the check or other written order was not paid,  
23 and  
24

1 (3) the uttering of the check or other written order  
2 constituted the means for inducing the person,  
3 one possessed of a special lien created by  
4 subsection A of this section upon the described  
5 article of personal property, to deliver up the  
6 said article of personal property.

7 2. a. Any person who renders service to the owner of an  
8 article of personal property by furnishing storage,  
9 rental space, material, labor, or skill for the  
10 protection, improvement, safekeeping, towing, right to  
11 occupy space, storage, or carriage thereof shall have  
12 a special lien on such property pursuant to this  
13 section if such property is removed from the person's  
14 possession, without such person's written consent or  
15 without payment for such service.

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

20 (1) that services were rendered on or in relation to  
21 the article of personal property by the person  
22 claiming such lien,  
23  
24

- 1 (2) that the property was in the possession of the  
2 person claiming the lien but such property was  
3 removed without his written consent,
- 4 (3) an identifying description of the article of  
5 personal property on or in relation to which the  
6 service was rendered, and
- 7 (4) that the debt for the services rendered on or in  
8 relation to the article of personal property was  
9 not paid. Provided, if the unpaid total amount  
10 of the debt for services rendered on or in  
11 relation to the article of personal property is  
12 unknown, an approximated amount of the debt due  
13 and owing shall be included in the sworn  
14 statement but such approximated debt may be  
15 amended within thirty (30) days of such filing to  
16 reflect the actual amount of the debt due and  
17 owing.

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

23 C. If the person who renders service to the owner of an article  
24 of personal property to which this section applies relinquishes or

1 loses possession of the article due to circumstances described in  
2 subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of  
3 subsection B of this section, the person claiming the lien shall be  
4 entitled to possession of the article until the amount due is paid,  
5 unless the article is possessed by a person who became a bona fide  
6 purchaser. Entitlement to possession shall be in accordance with  
7 the following:

8 1. The claimant may take possession of an article pursuant to  
9 this subsection only if the person obligated under the contract for  
10 services has signed an acknowledgment of receipt of a notice that  
11 the article may be subject to repossession. The notice and  
12 acknowledgment pursuant to this subsection shall be:

- 13 a. in writing and separate from the written contract for  
14 services, or
- 15 b. printed on the written contract for services, credit  
16 agreement or other document which displays the notice  
17 in bold-faced, capitalized and underlined type, or is  
18 separated from surrounding written material so as to  
19 be conspicuous with a separate signature line;

20 2. The claimant may require the person obligated under the  
21 contract for services to pay the costs of repossession as a  
22 condition for reclaiming the article only to the extent of the  
23 reasonable fair market value of the services required to take  
24 possession of the article;

1           3. The claimant shall not transfer to a third party or to a  
2 person who performs repossession services, a check, money order, or  
3 credit card transaction that is received as payment for services  
4 with respect to an article and that is returned to the claimant  
5 because of insufficient funds or no funds, because the person  
6 writing the check, issuing the money order, or credit cardholder has  
7 no account or because the check, money order, or credit card account  
8 has been closed. A person violating this paragraph shall be guilty  
9 of a misdemeanor; and

10           4. An article that is repossessed pursuant to this subsection  
11 shall be promptly delivered to the location where the services were  
12 performed. The article shall remain at the services location at all  
13 times until the article is lawfully returned to the record owner or  
14 a lienholder or is disposed of pursuant to this section.

15           D. 1. This section applies if a vehicle, all-terrain vehicle,  
16 manufactured home, motorcycle, boat, outboard motor, or trailer has  
17 a certificate of title issued by the Oklahoma Tax Commission or by a  
18 federally recognized Indian tribe in Oklahoma, but there is no  
19 active lien recorded on the certificate of title.

20           2. This section applies if a vehicle, all-terrain vehicle,  
21 utility vehicle, motorcycle, boat, outboard motor or trailer has a  
22 certificate of title issued by the Oklahoma Tax Commission or by a  
23 federally recognized Indian tribe in Oklahoma, and there is an  
24

1 active lien recorded on the certificate of title, but the lien is  
2 over fifteen (15) years old.

3 3. This section applies if personal property to which Section  
4 91 of this title otherwise would apply has been registered by the  
5 Oklahoma Tax Commission or by a federally recognized Indian tribe in  
6 the State of Oklahoma, and there is a lien of record but no  
7 certificate of title has been issued.

8 4. This section applies if personal property to which Section  
9 91 of this title otherwise would apply has not been registered by  
10 either the Oklahoma Tax Commission or a federally recognized Indian  
11 tribe in the State of Oklahoma, and no certificate of title has been  
12 issued, but there is a lien of record.

13 5. This section applies to personal property that otherwise  
14 would be covered by Section 91 of this title, except that the  
15 services were rendered or the property was abandoned prior to  
16 November 1, 2005.

17 6. This section applies to a vehicle, all-terrain vehicle,  
18 utility vehicle, manufactured home, motorcycle, boat, outboard  
19 motor, or trailer for which ownership cannot be determined by  
20 ordinary means or by the Oklahoma Tax Commission Motor Vehicle  
21 Division, as provided in subparagraphs d and e of paragraph 4 of  
22 subsection A of this section, as applicable.

23

24

1       7. This section applies to items of personal property that are  
2 not required by Oklahoma law to be titled, and that do not have a  
3 certificate of title.

4       8. This section applies to salvage pools as defined in Section  
5 591.2 of Title 47 of the Oklahoma Statutes.

6       9. This section applies to class AA licensed wrecker operators  
7 in their capacity as wrecker operators with respect to all types of  
8 personal property, regardless of whether that personal property has  
9 a certificate of title.

10       10. For a vehicle abandoned at a salvage pool, if the cost of  
11 repairing the vehicle for safe operation on the highway does not  
12 exceed sixty percent (60%) of the fair market value of the vehicle  
13 as defined in Section 1111 of Title 47 of the Oklahoma Statutes, a  
14 salvage title shall not be required.

15       E. For purposes of this section:

16       1. "Possession" includes actual possession and constructive  
17 possession; and

18       2. "Constructive possession" means possession by a person who,  
19 although not in actual possession, does not have an intention to  
20 abandon property, knowingly has both power and the intention at a  
21 given time to exercise dominion or control over the property, and  
22 who holds claim to such thing by virtue of some legal right.

23       F. A person who knowingly makes a false statement of a material  
24 fact in a proceeding under this section, or attempts to use or uses

1 the provisions of this section to foreclose an owner or lienholder's  
2 interest in a vehicle knowing that any of the statements made in the  
3 proceeding are false, upon conviction, shall be guilty of a felony.

4 SECTION 3. This act shall become effective November 1, 2013.

5 Passed the Senate the 11th day of March, 2013.

6  
7 \_\_\_\_\_  
8 Presiding Officer of the Senate

9 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
10 2013.

11  
12 \_\_\_\_\_  
13 Presiding Officer of the House  
14 of Representatives