



1 referred to as "Section 91 Personal Property". If personal property  
2 is apparently covered both by this section and by Sections 191  
3 through 200 of this title, the procedures set out in this section  
4 shall apply instead of Sections 191 through 200.

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

12 3. This special lien shall be subordinate to any perfected  
13 security interest unless the claimant complies with the requirements  
14 of this section.

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

22 (If services provided are pursuant to a contract primarily for the  
23 purpose of storage or rental of space, the beginning date of the  
24 ~~sixty-day~~ forty-five-day period provided in the previous sentence

1 shall be the first day of the first period or partial period for  
2 which rental or storage charges remain unpaid.) ~~The notice shall be~~  
3 ~~in writing and shall contain, but not be limited to, the following:~~  
4 The request shall be in writing on a form developed by the  
5 Commission and shall include such information as is needed to  
6 satisfy the notice requirements of paragraph 5 of this subsection.  
7 The request shall be accompanied by a fee sufficient to cover the  
8 cost of processing and mailing, but in no event greater than Thirty-  
9 five Dollars (\$35.00). The claimant may add the amount of such fee  
10 to the special possessory lien.

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

- 18 a. a statement that the notice is a notice of a  
19 possessory lien,  
20 b. the complete legal name, physical and mailing address,  
21 and telephone number of the claimant,  
22 c. the complete legal name, physical and mailing address  
23 of the person who requested that the claimant render  
24 service to the owner by furnishing material, labor or

1 skill, storage, or rental space, or the date the  
2 property was abandoned if the claimant did not render  
3 any other service,

4 d. a description of the article of personal property,  
5 including a photograph if the property is a motor  
6 vehicle, and the complete physical and mailing address  
7 of the location of the article of personal property,

8 e. an itemized statement describing the date or dates the  
9 labor or services were performed and material  
10 furnished, and the amount of the compensation claimed,

11 f. a statement by the claimant that the materials, labor  
12 or skill furnished, or arrangement for storage or  
13 rental of space, was authorized by the owner of the  
14 personal property and was in fact provided or  
15 performed, or that the property was abandoned by the  
16 owner if the claimant did not render any other  
17 service, and that storage or rental fees will accrue  
18 as allowed by law, ~~and~~

19 g. the signature of the claimant which shall be notarized  
20 and, if applicable, the signature of the claimant's  
21 attorney. If the claimant is a business, then the  
22 name of the contact person must be shown. In place of  
23 an original signature and notary seal, a digital or  
24 electronic signature or seal shall be accepted, and

1            h.    a statement informing the interested party of the  
2                    right to a hearing regarding validity of the special  
3                    lien in accordance with paragraph 14 of this  
4                    subsection. The statement shall include procedures to  
5                    request such a hearing.

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

23            ~~6.~~ 7.    The lien may be foreclosed by a sale of such personal  
24 property upon the notice and in the manner ~~following:~~ described in

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

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

- 20 a. a statement that the notice is a Notice of Sale,  
21 b. the names of all interested parties known to the  
22 claimant,  
23 c. a description of the property to be sold, including a  
24 photograph if the property is a motor vehicle,

- 1 d. a notarized statement of the nature of the work, labor  
2 or service performed, material furnished, or storage  
3 or rental of space, and the date thereof, and the name  
4 of the person who authorized the work, labor or  
5 service performed, or the storage or rental  
6 arrangement, or that the property was abandoned if the  
7 claimant did not render any other service,
- 8 e. the date, time and exact physical location of sale,  
9 and
- 10 f. the name, complete physical address and telephone  
11 number of the party foreclosing such lien. If the  
12 claimant is a business, then the name of the contact  
13 person must be shown. In place of an original  
14 signature and notary seal, a digital or electronic  
15 signature or seal shall be accepted, and
- 16 g. a statement informing the interested party of the  
17 right to a hearing regarding validity of the special  
18 lien or sale in accordance with paragraph 14 of this  
19 subsection. The statement shall include procedures to  
20 request such a hearing.

21 ~~7. Such~~ 9. The Commission or its agent shall cause such notice  
22 of sale ~~shall~~ to be posted in ~~three~~ two public places in the county  
23 where the property is to be sold at least ~~ten (10)~~ twenty (20) days  
24 before the time therein specified for such sale, ~~and.~~ The

1 Commission or its agent shall mail a copy of the notice ~~shall be~~  
2 ~~mailed~~ to all interested parties at their last-known post office  
3 address, by regular, first class United States mail and by certified  
4 mail, return receipt requested, on the day of posting. If the item  
5 of personal property is a manufactured home, notice shall also be  
6 sent by certified mail to the county treasurer and to the county  
7 assessor of the county where the manufactured home is located.

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

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

21 ~~10.~~ 12. The claimant or any other person may in good faith  
22 become a purchaser of the property sold.

23 ~~11.~~ 13. Proceedings for foreclosure under this act shall be  
24 commenced ~~within thirty (30) days after the Notice of Possessory~~

1 ~~Lien has been mailed as evidenced by certified mail~~ no sooner than  
2 twenty (20) days and no later than thirty (30) days after notice of  
3 lien as evidenced by certified mail or conclusion of final hearing,  
4 if any. The date actually sold shall be within sixty (60) days from  
5 the date of the Notice of Sale as evidenced by certified mail. Such  
6 foreclosure sale shall not occur until all requested hearings, if  
7 any, have been resolved, or until claimant has received notification  
8 from the Commission, in accordance with paragraph 14 of this  
9 subsection that a hearing is not requested.

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

22 B. 1. a. Any person who is induced by means of a check or other  
23 form of written order for immediate payment of money  
24 to deliver up possession of an article of personal

1 property on which the person has a special lien  
2 created by subsection A of this section, which check  
3 or other written order is dishonored, or is not paid  
4 when presented, shall have a lien for the amount  
5 thereof upon the personal property.

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

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

17 (2) the check or other written order was not paid,  
18 and

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

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

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

14                   (1)   that services were rendered on or in relation to  
15                    the article of personal property by the person  
16                    claiming such lien,

17                   (2)   that the property was in the possession of the  
18                    person claiming the lien but such property was  
19                    removed without his or her written consent,

20                   (3)   an identifying description of the article of  
21                    personal property on which the service was  
22                    rendered, and

23                   (4)   that the debt for the services rendered on or in  
24                    relation to the article of personal property was

1 not paid. Provided, if the unpaid total amount  
2 of the debt for services rendered on or in  
3 relation to the article of personal property is  
4 unknown, an approximated amount of the debt due  
5 and owing shall be included in the sworn  
6 statement but such approximated debt may be  
7 amended within thirty (30) days of such filing to  
8 reflect the actual amount of the debt due and  
9 owing.

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

15 4. If a person claiming a special lien pursuant to this section  
16 fails to substantially comply with any of the requirements of this  
17 section, any interested party may proceed against the person  
18 claiming such lien for all damages arising therefrom, including  
19 conversion, if the article of personal property has been sold. If  
20 the notice or notices required by this section shall be shown to be  
21 knowingly false or fraudulent, the interested party shall be  
22 entitled to treble damages. The prevailing party shall be entitled  
23 to all costs, including a reasonable attorney fee.  
24

1 C. If the person who renders service to the owner of an article  
2 of personal property to which this section applies relinquishes or  
3 loses possession of the article due to circumstances described in  
4 subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of  
5 subsection B of this section, the person claiming the lien shall be  
6 entitled to possession of the article until the amount due is paid,  
7 unless the article is possessed by a person who became a bona fide  
8 purchaser. Entitlement to possession shall be in accordance with  
9 the following:

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

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

22 2. The claimant may require the person obligated under the  
23 contract for services to pay the costs of repossession as a  
24 condition for reclaiming the article only to the extent of the

1 reasonable fair market value of the services required to take  
2 possession of the article;

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

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

17 D. 1. If a vehicle, all-terrain vehicle, utility vehicle,  
18 manufactured home, motorcycle, boat, outboard motor, or trailer has  
19 a certificate of title issued by the Oklahoma Tax Commission or by a  
20 federally recognized Indian tribe in the State of Oklahoma, but  
21 there is no active lien recorded on the certificate of title,  
22 Section 91A of this title will apply instead of this section.  
23 Likewise, if there is an active lien recorded on the certificate of  
24 title but the lien is over fifteen (15) years old and the property

1 is not a manufactured home, Section 91A will apply instead of this  
2 section.

3 2. If personal property that otherwise would be covered by this  
4 section has been registered by the Oklahoma Tax Commission or by a  
5 federally recognized Indian tribe in the State of Oklahoma, and  
6 there is a lien of record but no certificate of title has been  
7 issued, Section 91A of this title will apply instead of this  
8 section.

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

13 4. Salvage pools as defined in Section 591.2 of Title 47 of the  
14 Oklahoma Statutes and class AA licensed wrecker operators in their  
15 capacity as wrecker operators shall not be subject to the provisions  
16 of this section. Salvage pools as defined in Section 591.2 of Title  
17 47 of the Oklahoma Statutes and class AA licensed wrecker operators  
18 shall be subject to Section 91A of this title.

19 E. For purposes of this section:

20 1. "Possession" includes actual possession and constructive  
21 possession; and

22 2. "Constructive possession" means possession by a person who,  
23 although not in actual possession, does not have an intention to  
24 abandon property, knowingly has both power and the intention at a

1 given time to exercise dominion or control over the property, and  
2 who holds claim to such thing by virtue of some legal right.

3 F. A person who knowingly makes a false statement of a material  
4 fact in a proceeding under this section, or attempts to use or uses  
5 the provisions of this section to foreclose an owner or lienholder's  
6 interest in a vehicle knowing that any of the statements made in the  
7 proceeding are false, upon conviction, shall be guilty of a felony.

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

10 Section 91A.

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

13 (1) farm equipment as defined in Section 91.2 of this  
14 title, and

15 (2) "Section 91 Personal Property" as defined in  
16 Section 91 of this title.

17 b. This section applies to any vehicle, all-terrain  
18 vehicle, utility vehicle, manufactured home,  
19 motorcycle, boat, outboard motor, or trailer that is  
20 excluded from coverage under subsection A of Section  
21 91 of this title because the personal property:

22 (1) does not have a certificate of title, or  
23  
24

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

4 (3) has a certificate of title that is not issued by  
5 the Oklahoma Tax Commission or by a federally  
6 recognized Indian tribe in the State of Oklahoma,  
7 or

8 (4) is otherwise excluded by subsection D of Section  
9 91 of this title.

10 c. If personal property has a certificate of title, or  
11 would be required to have a certificate of title under  
12 Oklahoma law, and is apparently covered both by this  
13 section and by Sections 191 through 200 of this title,  
14 the procedures set out in this section shall apply  
15 instead of Sections 191 through 200 of this title. If  
16 personal property without a certificate of title and  
17 not required to be titled under Oklahoma law is  
18 covered both by this section and Sections 191 through  
19 200 of this title, the procedures set out in Sections  
20 191 through 200 of this title shall apply instead of  
21 this section.

22 2. Any person who, while lawfully in possession of an article  
23 of personal property to which this section applies, renders any  
24 service to the owner thereof by furnishing storage, rental space,

1 material, labor or skill for the protection, improvement,  
2 safekeeping, towing, right to occupy space, storage or carriage  
3 thereof, has a special lien thereon, dependent on possession, for  
4 the compensation, if any, which is due to such person from the owner  
5 for such service. Charges owed under a contract primarily for the  
6 purpose of storage or rental of space shall be accrued only at the  
7 regular periodic rate for storage or rental as provided in the  
8 contract, adjusted for partial periods of storage or rental.

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

22 4. Upon receipt of request for notice of sale to be sent as  
23 provided in paragraph 3 of this subsection, the Commission or its  
24 agent shall mail a notice of such sale within six (6) business days

1 by regular, first class United States mail, and by certified mail,  
2 return receipt requested, to all interested parties who reside at  
3 separate locations. The notice shall be in writing and shall  
4 contain, but not be limited to:

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

23 4.



1 other person having any interest in the personal  
2 property, of whom the claimant has actual notice.

3 c. In the case of personal property subject to this  
4 section for which a certificate of title has been  
5 issued by any jurisdiction, a party who claims any  
6 interest in the property shall include all owners of  
7 the article of personal property as indicated by the  
8 certificate of title; lien debtors, if any, other than  
9 the owners; any lienholder whose lien is noted on the  
10 face of the certificate of title; and any other person  
11 having any interest in the article of personal  
12 property, of whom the claimant has actual notice.

13 d. When the jurisdiction of titling for a vehicle, all-  
14 terrain vehicle, motorcycle, boat, outboard motor, or  
15 trailer that is five (5) model years old or newer, or  
16 a manufactured home that is fifteen (15) model years  
17 old or newer, cannot be determined by ordinary means,  
18 the claimant, the agent of the claimant, or the  
19 attorney of the claimant, shall request, in writing,  
20 that the Oklahoma Tax Commission Motor Vehicle  
21 Division ascertain the jurisdiction where the vehicle  
22 or manufactured home is titled. The Oklahoma Tax  
23 Commission Motor Vehicle Division shall, within  
24 fourteen (14) days from the date the request is

1 received, provide information as to the jurisdiction  
2 where the personal property is titled. If the  
3 Oklahoma Tax Commission Motor Vehicle Division is  
4 unable to provide the information, it shall provide  
5 notice that the record is not available.

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

1 date of publication may occur. The first date  
2 available for public sale of the vehicle is the day  
3 following publication of the final notice. When the  
4 owner of record is unknown, the Notice of Sale  
5 nevertheless must be completed and mailed to any known  
6 interested party by certified mail. For purposes of  
7 this paragraph, interested parties shall include all  
8 persons described in subparagraph b or subparagraph c  
9 of this paragraph, whichever is applicable, with the  
10 exception of any owner who is unknown. Except in  
11 circumstances described in paragraph 7 of this  
12 subsection that provide for a shorter time period, the  
13 Notice of Sale shall be posted in three public places  
14 in the county where the property is to be sold at  
15 least ten (10) days before the time therein specified  
16 for such sale, and the Notice of Sale shall not be  
17 mailed until at least thirty (30) days after said lien  
18 has accrued.

19 ~~5.~~ 6. The lienor or any other person may in good faith become a  
20 purchaser of the property sold.

21 ~~6.~~ 7. Proceedings for foreclosure under this act shall ~~not~~ be  
22 commenced ~~until~~ no sooner than thirty (30) days and no later than  
23 forty-five (45) days after said lien has accrued, except as provided  
24 elsewhere in Oklahoma law. The date actually sold shall be no

1 sooner than twenty (20) days and no later than 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 subparagraph c of paragraph  
6 9 of this subsection that a hearing is not requested.

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

19 9. Upon receipt of Notice of Sale pursuant to this subsection,  
20 any interested party is entitled to a hearing regarding the validity  
21 of the lien or sale. To preserve the right to a hearing, the  
22 interested party shall submit a written request to the Commission  
23 within fifteen (15) days of the date of Notice of Sale, as evidenced  
24 by certified mail. Within five (5) days of receipt of such written

1 request for hearing, the Commission shall schedule the hearing and  
2 provide written notice to the claimant and interested parties. If a  
3 hearing is not requested in response to a notice of sale, the  
4 Commission shall notify claimant of that fact within twenty (20)  
5 days of the notice of sale, as evidenced by certified mail.

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

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

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

1 (2) the check or other written order was not paid,  
2 and  
3 (3) the uttering of the check or other written order  
4 constituted the means for inducing the person,  
5 one possessed of a special lien created by  
6 subsection A of this section upon the described  
7 article of personal property, to deliver up the  
8 said article of personal property.

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

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

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

- 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.

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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 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/09/2013 - DO  
6 PASS, As Amended.

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