

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2993

By: Perryman

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5  
6 AS INTRODUCED

7 An Act relating to liens; amending 42 O.S. 2011,  
8 Sections 91 and 91A, which relate to liens on  
9 personal property; modifying timing requirements for  
10 sending special lien notice; altering time for  
11 special lien assessment; changing time for posting  
notice of sale; allowing recourse for failure to  
comply with special lien provisions; modifying time  
for posting notice of sale; and providing an  
effective date.

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

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

17 Section 91. A. 1. This section applies to every vehicle, all-  
18 terrain vehicle, utility vehicle, manufactured home, motorcycle,  
19 boat, outboard motor, or trailer that has a certificate of title  
20 issued by the Oklahoma Tax Commission or by a federally recognized  
21 Indian tribe in the State of Oklahoma, except as otherwise provided  
22 in subsection D of this section. This section does not apply to  
23 farm equipment as defined in Section 91.2 of this title. The items  
24 of personal property to which this section applies are collectively

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)~~ thirty (30) days after the first services are rendered,  
18 by regular, first class United States mail, and by certified mail,  
19 to all interested parties who reside at separate locations. (If  
20 services provided are pursuant to a contract primarily for the  
21 purpose of storage or rental of space, the beginning date of the  
22 ~~sixty-day~~ thirty-day period provided in ~~the previous sentence~~ this  
23 paragraph shall be the first day of the first period or partial  
24 period for which rental or storage charges remain unpaid.) The

1 notice shall be in writing and shall contain, but not be limited to,  
2 the following:

- 3 a. a statement that the notice is a notice of a  
4 possessory lien,
- 5 b. the complete legal name, physical and mailing address,  
6 and telephone number of the claimant,
- 7 c. the complete legal name, physical and mailing address  
8 of the person who requested that the claimant render  
9 service to the owner by furnishing material, labor or  
10 skill, storage, or rental space, or the date the  
11 property was abandoned if the claimant did not render  
12 any other service,
- 13 d. a description of the article of personal property and  
14 the complete physical and mailing address of the  
15 location of the article of personal property,
- 16 e. an itemized statement describing the date or dates the  
17 labor or services were performed and material  
18 furnished, and the amount of the compensation claimed,
- 19 f. a statement by the claimant that the materials, labor  
20 or skill furnished, or arrangement for storage or  
21 rental of space, was authorized by the owner of the  
22 personal property and was in fact provided or  
23 performed, or that the property was abandoned by the  
24 owner if the claimant did not render any other

1 service, and that storage or rental fees will accrue  
2 as allowed by law, and

3 g. the signature of the claimant which shall be notarized  
4 and, if applicable, the signature of the claimant's  
5 attorney. If the claimant is a business, then the  
6 name of the contact person must be shown. In place of  
7 an original signature and notary seal, a digital or  
8 electronic signature or seal shall be accepted.

9 5. For services rendered or vehicles abandoned on or after  
10 November 1, 2005, storage charges or charges for rental of space  
11 (unless agreed to by contract as part of an overall transaction or  
12 arrangement that was primarily for the purpose of storage of the  
13 Section 91 Personal Property or rental of space) may only be  
14 assessed beginning with the day that the Notice of Possessory Lien  
15 is mailed as evidenced by certified mail. Provided, however, in the  
16 case of contractual charges incurred for storage or rental of space  
17 in an overall transaction primarily for the purpose of storage or  
18 rental, charges subject to the special lien may only be assessed  
19 beginning with a date not more than ~~sixty (60)~~ thirty (30) days  
20 prior to the day that the Notice of Possessory Lien is mailed, and  
21 shall accrue only at the regular periodic rate for storage or rental  
22 as provided in the contract, adjusted for partial periods of storage  
23 or rental. The maximum allowable compensation for storage shall not  
24

1 exceed the fees established by the Corporation Commission for  
2 nonconsensual tows.

3 6. The lien may be foreclosed by a sale of such personal  
4 property upon the notice and in the manner following: The notice of  
5 sale shall contain:

- 6 a. a statement that the notice is a Notice of Sale,
- 7 b. the names of all interested parties known to the  
8 claimant,
- 9 c. a description of the property to be sold,
- 10 d. a notarized statement of the nature of the work, labor  
11 or service performed, material furnished, or storage  
12 or rental of space, and the date thereof, and the name  
13 of the person who authorized the work, labor or  
14 service performed, or the storage or rental  
15 arrangement, or that the property was abandoned if the  
16 claimant did not render any other service,
- 17 e. the date, time and exact physical location of sale,  
18 and
- 19 f. the name, complete physical address and telephone  
20 number of the party foreclosing such lien. If the  
21 claimant is a business, then the name of the contact  
22 person must be shown. In place of an original  
23 signature and notary seal, a digital or electronic  
24 signature or seal shall be accepted.

1           7. Such notice of sale shall be posted in three public places  
2 in the county where the property is to be sold at least ~~ten (10)~~  
3 thirty (30) days before the time therein specified for such sale,  
4 and a copy of the notice shall be mailed to all interested parties  
5 at their last-known post office address, by regular, first class  
6 United States mail and by certified mail on the day of posting. If  
7 the item of personal property is a manufactured home, notice shall  
8 also be sent by certified mail to the county treasurer and to the  
9 county assessor of the county where the manufactured home is  
10 located.

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

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

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

3        11. Proceedings for foreclosure under this act shall be  
4 commenced within thirty (30) days after the Notice of Possessory  
5 Lien has been mailed as evidenced by certified mail. The date  
6 actually sold shall be within sixty (60) days from the date of the  
7 Notice of Sale as evidenced by certified mail.

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

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

21        (1) the check or other written order for immediate  
22 payment of money, copy thereof being attached,  
23 was received for labor, material or supplies for  
24 producing or repairing an article of personal

1 property, or for other specific property-related  
2 services covered by this section,

3 (2) the check or other written order was not paid,  
4 and

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

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

20 b. The person claiming such lien shall, within five (5)  
21 days of such nonauthorized removal, file in the office  
22 of the county clerk of the county in which the  
23 property is located, a sworn statement including:  
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- 1 (1) that services were rendered on or in relation to  
2 the article of personal property by the person  
3 claiming such lien,  
4 (2) that the property was in the possession of the  
5 person claiming the lien but such property was  
6 removed without his or her written consent,  
7 (3) an identifying description of the article of  
8 personal property on which the service was  
9 rendered, and  
10 (4) that the debt for the services rendered on or in  
11 relation to the article of personal property was  
12 not paid. Provided, if the unpaid total amount  
13 of the debt for services rendered on or in  
14 relation to the article of personal property is  
15 unknown, an approximated amount of the debt due  
16 and owing shall be included in the sworn  
17 statement but such approximated debt may be  
18 amended within thirty (30) days of such filing to  
19 reflect the actual amount of the debt due and  
20 owing.

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

3 4. If a person claiming a special lien pursuant to this section  
4 fails to ~~substantially~~ comply with any of the requirements of this  
5 section, any interested party may proceed against the person  
6 claiming such lien for all damages arising therefrom, including  
7 conversion, if the article of personal property has been sold. If  
8 the notice or notices required by this section shall be shown to be  
9 knowingly false or fraudulent, the interested party shall be  
10 entitled to treble damages. The prevailing party shall be entitled  
11 to all costs, including a reasonable attorney fee.

12 C. If the person who renders service to the owner of an article  
13 of personal property to which this section applies relinquishes or  
14 loses possession of the article due to circumstances described in  
15 subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of  
16 subsection B of this section, the person claiming the lien shall be  
17 entitled to possession of the article until the amount due is paid,  
18 unless the article is possessed by a person who became a bona fide  
19 purchaser. Entitlement to possession shall be in accordance with  
20 the following:

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

- 3 a. in writing and separate from the written contract for  
4 services, or
- 5 b. printed on the written contract for services, credit  
6 agreement or other document which displays the notice  
7 in bold-faced, capitalized and underlined type, or is  
8 separated from surrounding written material so as to  
9 be conspicuous with a separate signature line;

10 2. The claimant may require the person obligated under the  
11 contract for services to pay the costs of repossession as a  
12 condition for reclaiming the article only to the extent of the  
13 reasonable fair market value of the services required to take  
14 possession of the article;

15 3. The claimant shall not transfer to a third party or to a  
16 person who performs repossession services, a check, money order, or  
17 credit card transaction that is received as payment for services  
18 with respect to an article and that is returned to the claimant  
19 because of insufficient funds or no funds, because the person  
20 writing the check, issuing the money order, or credit cardholder has  
21 no account or because the check, money order, or credit card account  
22 has been closed. A person violating this paragraph shall be guilty  
23 of a misdemeanor; and

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

6           D. 1. If a vehicle, all-terrain vehicle, utility vehicle,  
7 manufactured home, motorcycle, boat, outboard motor, or trailer has  
8 a certificate of title issued by the Oklahoma Tax Commission or by a  
9 federally recognized Indian tribe in the State of Oklahoma, but  
10 there is no active lien recorded on the certificate of title,  
11 Section 91A of this title will apply instead of this section.

12 Likewise, if there is an active lien recorded on the certificate of  
13 title but the lien is over fifteen (15) years old and the property  
14 is not a manufactured home, Section 91A will apply instead of this  
15 section.

16           2. If personal property that otherwise would be covered by this  
17 section has been registered by the Oklahoma Tax Commission or by a  
18 federally recognized Indian tribe in the State of Oklahoma, and  
19 there is a lien of record but no certificate of title has been  
20 issued, Section 91A of this title will apply instead of this  
21 section.

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

3 4. Salvage pools as defined in Section 591.2 of Title 47 of the  
4 Oklahoma Statutes and class AA licensed wrecker operators in their  
5 capacity as wrecker operators shall not be subject to the provisions  
6 of this section. Salvage pools as defined in Section 591.2 of Title  
7 47 of the Oklahoma Statutes and class AA licensed wrecker operators  
8 shall be subject to Section 91A of this title.

9 E. For purposes of this section:

10 1. "Possession" includes actual possession and constructive  
11 possession; and

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

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

19 Section 91A. A. 1. a. This section applies to all types of  
20 personal property other than:

21 (1) farm equipment as defined in Section 91.2 of this  
22 title, and

23 (2) "Section 91 Personal Property" as defined in  
24 Section 91 of this title.

1           b. This section applies to any vehicle, all-terrain  
2           vehicle, utility vehicle, manufactured home,  
3           motorcycle, boat, outboard motor, or trailer that is  
4           excluded from coverage under subsection A of Section  
5           91 of this title because the personal property:

6           (1) does not have a certificate of title, or

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

10          (3) has a certificate of title that is not issued by  
11          the Oklahoma Tax Commission or by a federally  
12          recognized Indian tribe in the State of Oklahoma,  
13          or

14          (4) is otherwise excluded by subsection D of Section  
15          91 of this title.

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

1           200 of this title, the procedures set out in Sections  
2           191 through 200 of this title shall apply instead of  
3           this section.

4           2. Any person who, while lawfully in possession of an article  
5 of personal property to which this section applies, renders any  
6 service to the owner thereof by furnishing storage, rental space,  
7 material, labor or skill for the protection, improvement,  
8 safekeeping, towing, right to occupy space, storage or carriage  
9 thereof, has a special lien thereon, dependent on possession, for  
10 the compensation, if any, which is due to such person from the owner  
11 for such service. Charges owed under a contract primarily for the  
12 purpose of storage or rental of space shall be accrued only at the  
13 regular periodic rate for storage or rental as provided in the  
14 contract, adjusted for partial periods of storage or rental.

15           3. The lien may be foreclosed by a sale of such personal  
16 property upon the notice and in the manner following: The notice  
17 shall contain:

- 18           a. the names of the owner and any other known party or  
19           parties who may claim any interest in the property,
- 20           b. a description of the property to be sold,
- 21           c. the nature of the work, labor or service performed,  
22           material furnished, or the storage or rental  
23           arrangement, and the date thereof,
- 24           d. the time and place of sale, and

1 e. the name of the party, agent or attorney foreclosing  
2 such lien. If the claimant is a business, then the  
3 name of the contact person must be shown. In place of  
4 an original signature and notary seal, a digital or  
5 electronic signature or seal shall be accepted.

6 4. a. Such notice shall be posted in three public places in  
7 the county where the property is to be sold at least  
8 ~~ten (10)~~ thirty (30) days before the time therein  
9 specified for such sale, and a copy of the notice  
10 shall be mailed to the owner and any other party  
11 claiming any interest in the property if known, at  
12 their last-known post office address, by certified  
13 mail on the day of posting. If the item of personal  
14 property is a manufactured home, notice shall also be  
15 sent by certified mail to the county treasurer and to  
16 the county assessor of the county where the  
17 manufactured home is located.

18 b. In the case of any item of personal property without a  
19 certificate of title and not required to be titled  
20 under Oklahoma law, a party who claims any interest in  
21 the property shall include all owners of the property;  
22 any secured party who has an active financing  
23 statement on file with the county clerk of Oklahoma  
24 County listing one or more owners of the property by

1 legal name as debtors and indicating a collateral  
2 description that would include the property; and any  
3 other person having any interest in the personal  
4 property, of whom the claimant has actual notice.

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

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

1 Commission Motor Vehicle Division shall, within  
2 fourteen (14) days from the date the request is  
3 received, provide information as to the jurisdiction  
4 where the personal property is titled. If the  
5 Oklahoma Tax Commission Motor Vehicle Division is  
6 unable to provide the information, it shall provide  
7 notice that the record is not available.

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

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

21 5. The lienor or any other person may in good faith become a  
22 purchaser of the property sold.  
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1       6. Proceedings for foreclosure under this act shall not be  
2 commenced until thirty (30) days after said lien has accrued, except  
3 as provided elsewhere in Oklahoma law.

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

16       B. 1. a. Any person who is induced by means of a check or other  
17 form of written order for immediate payment of money  
18 to deliver up possession of an article of personal  
19 property on which the person has a special lien  
20 created by subsection A of this section, which check  
21 or other written order is dishonored, or is not paid  
22 when presented, shall have a lien for the amount  
23 thereof upon the personal property.  
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1           b.    The person claiming such lien shall, within thirty  
2                   (30) days from the date of dishonor of the check or  
3                   other written order for payment of money, file in the  
4                   office of the county clerk of the county in which the  
5                   property is situated a sworn statement that:

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

12                   (2)   the check or other written order was not paid,  
13                            and

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

20           2.    a.    Any person who renders service to the owner of an  
21                   article of personal property by furnishing storage,  
22                   rental space, material, labor, or skill for the  
23                   protection, improvement, safekeeping, towing, right to  
24                   occupy space, storage, or carriage thereof shall have

1 a special lien on such property pursuant to this  
2 section if such property is removed from the person's  
3 possession, without such person's written consent or  
4 without payment for such service.

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

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

12 (2) that the property was in the possession of the  
13 person claiming the lien but such property was  
14 removed without his written consent,

15 (3) an identifying description of the article of  
16 personal property on or in relation to which the  
17 service was rendered, and

18 (4) that the debt for the services rendered on or in  
19 relation to the article of personal property was  
20 not paid. Provided, if the unpaid total amount  
21 of the debt for services rendered on or in  
22 relation to the article of personal property is  
23 unknown, an approximated amount of the debt due  
24 and owing shall be included in the sworn

1 statement but such approximated debt may be  
2 amended within thirty (30) days of such filing to  
3 reflect the actual amount of the debt due and  
4 owing.

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

10 C. If the person who renders service to the owner of an article  
11 of personal property to which this section applies relinquishes or  
12 loses possession of the article due to circumstances described in  
13 subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of  
14 subsection B of this section, the person claiming the lien shall be  
15 entitled to possession of the article until the amount due is paid,  
16 unless the article is possessed by a person who became a bona fide  
17 purchaser. Entitlement to possession shall be in accordance with  
18 the following:

19 1. The claimant may take possession of an article pursuant to  
20 this subsection only if the person obligated under the contract for  
21 services has signed an acknowledgment of receipt of a notice that  
22 the article may be subject to repossession. The notice and  
23 acknowledgment pursuant to this subsection shall be:  
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- 1           a.    in writing and separate from the written contract for  
2                    services, or
- 3           b.    printed on the written contract for services, credit  
4                    agreement or other document which displays the notice  
5                    in bold-faced, capitalized and underlined type, or is  
6                    separated from surrounding written material so as to  
7                    be conspicuous with a separate signature line;

8           2.    The claimant may require the person obligated under the  
9 contract for services to pay the costs of repossession as a  
10 condition for reclaiming the article only to the extent of the  
11 reasonable fair market value of the services required to take  
12 possession of the article;

13           3.    The claimant shall not transfer to a third party or to a  
14 person who performs repossession services, a check, money order, or  
15 credit card transaction that is received as payment for services  
16 with respect to an article and that is returned to the claimant  
17 because of insufficient funds or no funds, because the person  
18 writing the check, issuing the money order, or credit cardholder has  
19 no account or because the check, money order, or credit card account  
20 has been closed. A person violating this paragraph shall be guilty  
21 of a misdemeanor; and

22           4.    An article that is repossessed pursuant to this subsection  
23 shall be promptly delivered to the location where the services were  
24 performed. The article shall remain at the services location at all

1 times until the article is lawfully returned to the record owner or  
2 a lienholder or is disposed of pursuant to this section.

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

8 2. This section applies if a vehicle, all-terrain vehicle,  
9 utility vehicle, motorcycle, boat, outboard motor or trailer has a  
10 certificate of title issued by the Oklahoma Tax Commission or by a  
11 federally recognized Indian tribe in Oklahoma, and there is an  
12 active lien recorded on the certificate of title, but the lien is  
13 over fifteen (15) years old.

14 3. This section applies if personal property to which Section  
15 91 of this title otherwise would apply has been registered by the  
16 Oklahoma Tax Commission or by a federally recognized Indian tribe in  
17 the State of Oklahoma, and there is a lien of record but no  
18 certificate of title has been issued.

19 4. This section applies if personal property to which Section  
20 91 of this title otherwise would apply has not been registered by  
21 either the Oklahoma Tax Commission or a federally recognized Indian  
22 tribe in the State of Oklahoma, and no certificate of title has been  
23 issued, but there is a lien of record.

24

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

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

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

14       8. This section applies to salvage pools as defined in Section  
15 591.2 of Title 47 of the Oklahoma Statutes.

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

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

1 E. For purposes of this section:

2 1. "Possession" includes actual possession and constructive  
3 possession; and

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

9 SECTION 3. This act shall become effective November 1, 2014.

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