

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1899

By: Calvey

AS INTRODUCED

An Act relating to liens; amending 42 O.S. 2011, Section 91A, as last amended by Section 2, Chapter 316, O.S.L. 2016 (42 O.S. Supp. 2016, Section 91A), which relates to liens on personal property; allowing for certain wrecker liens; changing title application requirements for certain vehicles; modifying certain procedural requirements for obtaining title; specifying abandoned vehicles not required to obtain salvaged title; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 42 O.S. 2011, Section 91A, as last amended by Section 2, Chapter 316, O.S.L. 2016 (42 O.S. Supp. 2016, Section 91A), is amended to read as follows:

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

- (1) farm equipment as defined in Section 91.2 of this title, and
- (2) "Section 91 Personal Property" as defined in 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 subparagraph b of
15 paragraph 1 of subsection A of Section 91 of this
16 title or subsection D of Section 91 of this
17 title, or

18 (5) is a vehicle, without a recorded lien, that has
19 been consensually towed by a class AA licensed
20 wrecker service.

21 c. If personal property has a certificate of title, or
22 would be required to have a certificate of title under
23 Oklahoma law, and is apparently covered both by this
24 section and by Sections 191 through 200 of this title,

1 the procedures set out in this section shall apply
2 instead of Sections 191 through 200 of this title. If
3 personal property without a certificate of title and
4 not required to be titled under Oklahoma law is
5 covered both by this section and Sections 191 through
6 200 of this title, the procedures set out in Sections
7 191 through 200 of this title shall apply instead of
8 this section.

- 9 2. a. Any person who, while lawfully in possession of an
10 article of personal property to which this section
11 applies, renders any service to the owner thereof by
12 furnishing storage, rental space, material, labor or
13 skill for the protection, improvement, safekeeping,
14 towing, right to occupy space, storage or carriage
15 thereof, has a special lien thereon, dependent on
16 possession, for the compensation, if any, which is due
17 to such person from the owner for such service.
18 Charges owed under a contract primarily for the
19 purpose of storage or rental of space shall be accrued
20 only at the regular periodic rate for storage or
21 rental as provided in the contract, adjusted for
22 partial periods of storage or rental.
- 23 b. Except for Class AA licensed wrecker towing charges,
24 the special lien shall be subordinate to any perfected

1 security interest unless the claimant complies with
2 the requirements of this section. Failure to comply
3 with any requirements of this section shall result in
4 denial of any title application and cause the special
5 lien to be subordinate to any perfected lien. Upon
6 such denial, the applicant shall be entitled to ~~one~~
7 ~~resubmission~~ resubmissions of the title application
8 within fifteen (15) business days of receipt of the
9 denial, excluding any out-of-state or tribal-
10 registered vehicles, and proceed to comply with the
11 requirements of this section. Resubmissions of the
12 title application for out-of-state or tribal-titled
13 vehicles must be within fifteen (15) business days of
14 receiving the ownership information from the titling
15 agency. "Failure to comply" includes, but is not
16 limited to:

- 17 (1) failure to timely provide additional
18 documentation supporting or verifying any entry
19 on submitted forms as requested by the Tax
20 Commission,
- 21 (2) failure to provide the documentation supporting
22 lawful possession as outlined in paragraph 3 of
23 subsection H of this section,
24

1 (3) claimant being other than the individual who
2 provided the service giving rise to the special
3 lien, as in subparagraph a of this paragraph,
4 (4) claimant not being in possession of the vehicle,
5 or
6 (5) notification and proceedings not accomplished in
7 accordance with subparagraph c of this paragraph,
8 and paragraph 3 of this subsection.

9 c. Any person claiming a lien under this section shall
10 request, within five (5) business days of performing
11 any service or work on the property, the Tax
12 Commission or other appropriate license agency to
13 furnish the name and address of the current owner of
14 and any lienholder upon the property. The Motor
15 Vehicle Division of the Tax Commission or appropriate
16 license agency shall respond in person or by mail to
17 the lien claimant within ten (10) business days of the
18 receipt of the request for information. Other state
19 and tribal licensing agencies are not bound by the
20 ten-business-day requirement to provide ownership or
21 lienholder information to the lien claimant. The Tax
22 Commission shall render assistance to ascertain
23 ownership, if needed. The lien claimant shall send,
24 within seven (7) business days of receipt of the

requested information from the Oklahoma Tax Commission or other license agency, a notice of the location of the property by certified mail with return receipt requested, postage prepaid, to the owner and any lienholder of the vehicle at the addresses furnished. The lien claimant may charge Twenty Dollars (\$20.00) for processing plus the cost of postage if the notice is timely sent pursuant to the requirements of this subparagraph in addition to fees regulated by the Oklahoma Corporation Commission for licensed wreckers. If the lien claimant is unable to meet the time requirements due to a lack of or an altered vehicle identification number on the property, the lien claimant shall proceed diligently to obtain the proper vehicle identification number and shall meet the time requirements on the notice once the vehicle identification number is known. If the lien claimant is required to send additional notices because of change of ownership or lienholder after it has timely complied with the requirements of this subparagraph, the lien claimant shall remain in compliance if such additional notices are sent within the required time periods from the date of discovery of the new owners

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

3 (1) a statement that the notice is a Notice of
4 Possessory Lien,

5 (2) the complete legal name, physical and mailing
6 address, and telephone number of the claimant,

7 (3) the complete legal name, physical and mailing
8 address of the person who requested that the
9 claimant render service to the owner by
10 furnishing material, labor or skill, storage, or
11 rental space, or the date the property was
12 abandoned if the claimant did not render any
13 other service,

14 (4) a description of the article of personal
15 property, and the complete physical and mailing
16 address of the location of the article of
17 personal property,

18 (5) the nature of the work, labor or service
19 performed, material furnished, or the storage or
20 rental arrangement, and the date thereof, and
21 written proof of authority to perform the work,
22 labor or service provided that, in the case of a
23 law enforcement directed tow, the logbook entry
24 prescribed in OAC 595:25-5-5 or the tow ticket as

1 defined by the Corporation Commission shall serve
2 as written proof of authority,

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

11 (7) an itemized statement describing the date or
12 dates the labor or services were performed and
13 material furnished and the charges claimed for
14 each item, the totals of which shall equal the
15 total compensation claimed.

16 The lien claimant shall not be required to send the
17 notice required in this subparagraph if the property
18 is released to an interested party before the notice
19 is mailed and no additional charges or fees continue
20 to accrue. If a law enforcement agency has the
21 property towed to a law enforcement facility, the
22 person claiming a lien under this section shall not be
23 required to send notice until the property is released
24 by law enforcement to the claimant or the date which

1 claimant starts charging storage, whichever is
2 earlier. A lien claimant shall have an extension of
3 ten (10) business days to request ownership
4 information from the titling agency and to send the
5 notice required in this subparagraph if a state of
6 emergency has been declared in the county in which the
7 property is located.

- 8 d. Subparagraphs b and c of this paragraph shall not
9 apply to salvage pools as defined in Section 591.2 of
10 Title 47 of the Oklahoma Statutes.

11 3. The lien may be foreclosed by a sale of such personal
12 property upon the notice and in the manner following: The notice
13 shall be in writing and shall contain, but not be limited to:

- 14 a. the names of the owner and any other known party or
15 parties who may claim any interest in the property,
16 b. a description of the property to be sold, including a
17 visual inspection or a photograph if the property is a
18 motor vehicle, and the physical location of the
19 property. If an inspection of the property is allowed
20 by the lien claimant, a photograph shall not be
21 required to be mailed with the notice or provided to
22 the Tax Commission,
23 c. the nature of the work, labor or service performed,
24 material furnished, or the storage or rental

1 arrangement, and the date thereof, and written proof
2 of authority to perform the work, labor or service
3 provided. In the case of a law enforcement directed
4 tow, the logbook entry prescribed in OAC 595:25-5-5 or
5 the tow ticket as defined by the Corporation
6 Commission, shall serve as written proof of authority.
7 An additional copy of the logbook or tow ticket shall
8 not be required with the notice of sale unless
9 requested by the registered owner or lienholder either
10 by mail or electronic communication,

- 11 d. the time and place of sale,
- 12 e. the name, telephone number, physical address and
13 mailing address of the claimant, and agent or
14 attorney, if any, foreclosing such lien. If the
15 claimant is a business, then the name of the contact
16 person representing the business must be shown. In
17 place of an original signature and notary seal, a
18 digital or electronic signature or seal shall be
19 accepted, and
- 20 f. itemized charges which shall equal the total
21 compensation claimed within Ten Dollars (\$10.00) of
22 the total amount shown on notices.

- 23 4. a. Such Notice of Sale shall be posted in two public
24 places in the county where the property is to be sold

1 at least ten (10) days before the time therein
2 specified for such sale, and a copy of the notice
3 shall be mailed to the owner and any other party
4 claiming any interest in the property, if known, at
5 their last-known post office address, by certified
6 mail, return receipt requested, at least ten (10) days
7 before the time therein specified for such sale. If
8 the item of personal property is a manufactured home,
9 notice shall also be sent by certified mail to the
10 county treasurer and to the county assessor of the
11 county where the manufactured home is located.

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

23 c. In the case of personal property subject to this
24 section for which a certificate of title has been

1 issued by any jurisdiction, a party who claims any
2 interest in the property shall include all owners of
3 the article of personal property as indicated by the
4 certificate of title; lien debtors, if any, other than
5 the owners; any lienholder whose lien is noted on the
6 face of the certificate of title; and any other person
7 having any interest in the article of personal
8 property, of whom the claimant has actual notice.

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

1 unable to provide the information, it shall provide
2 notice that the record is not available.

3 e. When personal property is of a type that Oklahoma law
4 requires to be titled, the owner of record of that
5 property is unknown, and the jurisdiction of titling
6 and owner of record cannot be determined by ordinary
7 means and also, if applicable, cannot be determined in
8 accordance with the preceding subparagraph, then the
9 special lien may be foreclosed by publication of a
10 legal notice in a legal newspaper in the county where
11 the personal property is located, as defined in
12 Section 106 of Title 25 of the Oklahoma Statutes.
13 Such notice shall include the description of the
14 property by year, make, vehicle identification number
15 if available from the property, the name of the
16 individual who may be contacted for information, and
17 the telephone number of that person or the address
18 where the vehicle is located. The legal notice shall
19 be published once per week for three (3) consecutive
20 weeks. As soon as circumstances exist as described in
21 the first sentence of this subparagraph, the first
22 date of publication may occur even if the special lien
23 has not accrued for over thirty (30) days. The first
24 date available for public sale of the vehicle is the

1 day following publication of the final notice, but no
2 fewer than thirty (30) days after the lien has
3 accrued. When the owner of record is unknown, the
4 Notice of Sale nevertheless must be completed and
5 mailed to any known interested party by certified
6 mail. For purposes of this paragraph, interested
7 parties shall include all persons described in
8 subparagraph b or subparagraph c of this paragraph,
9 whichever is applicable, with the exception of any
10 owner who is unknown. Except in circumstances
11 described in paragraph 7 of this subsection that
12 provide for a shorter time period, the Notice of Sale
13 shall be posted in two public places in the county
14 where the property is to be sold at least ten (10)
15 days before the time therein specified for such sale,
16 and the Notice of Sale shall not be mailed until at
17 least thirty (30) days after the lien has accrued.

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

20 6. Proceedings for foreclosure under this act shall not be
21 commenced until thirty (30) days after the lien has accrued, except
22 as provided elsewhere in Oklahoma law.

23 7. Notwithstanding any other provision of law, proceedings for
24 foreclosures for the storage of junk vehicles towed and stored

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

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

19 b. The person claiming such lien shall, within thirty
20 (30) days from the date of dishonor of the check or
21 other written order for payment of money, file in the
22 office of the county clerk of the county in which the
23 property is situated a sworn statement that:
24

- 1 (1) the check or other written order for immediate
2 payment of money, copy thereof being attached,
3 was received for labor, material or supplies for
4 producing or repairing an article of personal
5 property, or for other specific property-related
6 services covered by this section,
- 7 (2) the check or other written order was not paid,
8 and
- 9 (3) the uttering of the check or other written order
10 constituted the means for inducing the person,
11 one possessed of a special lien created by
12 subsection A of this section upon the described
13 article of personal property, to deliver up the
14 article of personal property.

15 2. a. Any person who renders service to the owner of an
16 article of personal property by furnishing storage,
17 rental space, material, labor, or skill for the
18 protection, improvement, safekeeping, towing, right to
19 occupy space, storage, or carriage thereof shall have
20 a special lien on such property pursuant to this
21 section if such property is removed from the person's
22 possession, without such person's written consent or
23 without payment for such service.
24

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

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

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

15 1. The claimant may take possession of an article pursuant to
16 this subsection only if the person obligated under the contract for
17 services has signed an acknowledgment of receipt of a notice that
18 the article may be subject to repossession. The notice and
19 acknowledgment pursuant to this subsection shall be:

- 20 a. in writing and separate from the written contract for
21 services, or
- 22 b. printed on the written contract for services, credit
23 agreement or other document which displays the notice
24 in bold-faced, capitalized and underlined type, or is

1 separated from surrounding written material so as to
2 be conspicuous with a separate signature line;

3 2. The claimant may require the person obligated under the
4 contract for services to pay the costs of repossession as a
5 condition for reclaiming the article only to the extent of the
6 reasonable fair market value of the services required to take
7 possession of the article;

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

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

22 D. 1. This section applies if a vehicle, all-terrain vehicle,
23 manufactured home, motorcycle, boat, outboard motor, or trailer has
24 a certificate of title issued by the Tax Commission or by a

1 federally recognized Indian tribe in Oklahoma, but there is no
2 active lien recorded on the certificate of title.

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

9 3. This section applies if personal property to which Section
10 91 of this title otherwise would apply has been registered by the
11 Tax Commission or by a federally recognized Indian tribe in the
12 State of Oklahoma, and there is a lien of record but no certificate
13 of title has been issued.

14 4. This section applies if personal property to which Section
15 91 of this title otherwise would apply has not been registered by
16 either the Tax Commission or a federally recognized Indian tribe in
17 the State of Oklahoma, and no certificate of title has been issued,
18 but there is a lien of record.

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

23 6. This section applies to a vehicle, all-terrain vehicle,
24 utility vehicle, manufactured home, motorcycle, boat, outboard

1 motor, or trailer for which ownership cannot be determined by
2 ordinary means or by the Oklahoma Tax Commission Motor Vehicle
3 Division, as provided in subparagraphs d and e of paragraph 4 of
4 subsection A of this section, as applicable.

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

8 8. This section applies to salvage pools as defined in Section
9 591.2 of Title 47 of the Oklahoma Statutes.

10 9. This section applies to class AA licensed wrecker services
11 taking possession of a vehicle pursuant to an agreement with, or at
12 the direction of, or dispatched by a state or local law enforcement
13 or government agency, or pursuant to the abandoned vehicle removal
14 provisions of Section 954A of Title 47 of the Oklahoma Statutes with
15 respect to all types of personal property, regardless of whether
16 that personal property has a certificate of title. In addition,
17 class AA licensed wrecker services performing consensual tows on
18 vehicles without recorded liens shall be subject to the provisions
19 of this section.

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. Unrecovered-theft-titled

1 vehicles abandoned with class AA wrecker services shall not be
2 required to obtain a salvage or junk title unless damage exceeds the
3 fair market value of the vehicle as defined in Section 1111 of Title
4 47 of the Oklahoma Statutes by an estimate from a body repair
5 facility or estimating service.

6 E. A person who knowingly makes a false statement of a material
7 fact regarding the furnishing of storage, rental space, material,
8 labor or skill for the protection, improvement, safekeeping, towing,
9 right to occupy space, storage or carriage thereof in a proceeding
10 under this section, or attempts to use or uses the provisions of
11 this section to foreclose an owner or lienholder's interest in a
12 vehicle knowing that any of the statements made in the proceeding
13 are false, upon conviction, shall be guilty of a felony.

14 F. Upon receipt of notice of legal proceedings, the Tax
15 Commission shall cause the sale process to be put on hold until
16 notice of resolution of court proceedings is received from the
17 court. If such notice of commencement of court proceedings is not
18 filed with the Tax Commission, the possessory lien sale process may
19 continue.

20 G. No possessory lien sale shall be held on a Sunday.

21 H. For purposes of this section:

22 1. "Possession" includes actual possession and constructive
23 possession;
24

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

6 3. "Lawfully in possession" means a person has documentation
7 from the owner or the owner's authorized agent, or an insurance
8 company or its authorized agent, authorizing the furnishing of
9 material, labor or storage, or that the property was authorized to
10 be towed to a repair facility.

11 Class AA wrecker services taking possession of a vehicle
12 pursuant to an agreement with, or at the direction of, or dispatched
13 by, a state or local law enforcement or government agency, or
14 pursuant to the abandoned vehicle removal provisions of Section 954A
15 of Title 47 of the Oklahoma Statutes, shall be considered lawfully
16 in possession of the vehicle. If the person lacks such
17 documentation, the procedures established by this section shall not
18 apply; and

19 4. "Itemized charges" means total parts, total labor, total
20 towing fees, total storage fees, total processing fees and totals of
21 any other fee groups, the sum total of which shall equal the
22 compensation claimed.

23 5. "Business days" are weekdays except all state or federally
24 recognized holidays. Saturdays and Sundays are not business days.

1 I. For purposes of this section, the United States Postal
2 Service approved electronic equivalent of proof of return receipt
3 requested Form 3811 shall satisfy return receipt requested
4 documentation requirements. If Form 3811 is not available or has
5 not been returned, the tracking report from the United States Postal
6 Service website showing the mailing of the certified return receipt
7 letter shall serve as proof of mailing. The lien claimant is
8 responsible for mailing the certified return receipt request letters
9 only. If the notice is undeliverable, unclaimed, refused or lost in
10 transit, it shall not delay the title application process.

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

20 K. Any interested party shall be permitted to visually inspect
21 and verify the services rendered by the claimant prior to the sale
22 of the article of property during normal business hours. If the
23 claimant fails to allow any interested party to inspect the
24 property, the interested party shall mail a request for inspection

1 by certified mail, return receipt requested, to the claimant.
2 Within three (3) business days of receipt of the request for
3 inspection, the claimant shall mail a photograph of the property, by
4 certified mail, return receipt requested, and a date of inspection
5 within five (5) business days from the date of the notice to
6 inspect. The lienholder shall be allowed to retrieve the property
7 without being required to bring the title into the lienholder's
8 name, if the lienholder provides proof it is a lienholder and any
9 payment due the claimant for lawful charges where the claimant has
10 complied with this section. Upon the release of personal property
11 to an insurer or representative of the insurer, wrecker operators
12 shall be exempt from all liability and shall be held harmless for
13 any losses or claims of loss. In the event any law enforcement
14 agency places a hold on the property, the party wanting to inspect
15 or photograph the property shall obtain permission from the law
16 enforcement agency that placed the hold on the property before
17 inspecting or photographing.

18 L. This section shall apply to all actions or proceedings that
19 commence on or after the effective date of this act.

20 SECTION 2. This act shall become effective November 1, 2017.

21

22 56-1-6241 JBH 01/16/17

23

24