

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3817 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Lonnie Sims

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 3817

By: Sims

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to liens; amending 42 O.S. 2021, Sections 91 and 91A, which relate to liens on personal property; requiring property to be possessed for a certain number of days before Notice of Sale can be mailed; prohibiting additional fees for resubmission of title application under certain circumstances; providing that a Notice of Possessory Lien and the Notice of Sale may be mailed on the date of title application submission; requiring in the event of title application resubmissions the storage charges shall only be charged from the date of resubmission; and providing an effective date.

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

SECTION 1. AMENDATORY 42 O.S. 2021, Section 91,  
is amended to read as follows:

Section 91.

A. 1. a. This section applies to every vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer that has a certificate of title issued by the Oklahoma Tax

1 Commission or by a federally recognized Indian tribe  
2 in the State of Oklahoma, except as otherwise provided  
3 in subsection D of this section. This section does  
4 not apply to farm equipment as defined in Section 91.2  
5 of this title. The items of personal property to  
6 which this section applies are collectively referred  
7 to as "Section 91 Personal Property". If personal  
8 property is apparently covered both by this section  
9 and by Sections 191 through 200 of this title, the  
10 procedures set out in this section shall apply instead  
11 of Sections 191 through 200 of this title.

- 12 b. Salvage pools as defined in Section 591.2 of Title 47  
13 of the Oklahoma Statutes and class AA licensed wrecker  
14 services taking possession of a vehicle pursuant to an  
15 agreement with or at the direction of, or dispatched  
16 by, a state or local law enforcement or government  
17 agency, or pursuant to the abandoned vehicle renewal  
18 provisions of Section 954A of Title 47 of the Oklahoma  
19 Statutes, shall not be subject to the provisions of  
20 this section, but shall be subject to the provisions  
21 of Section 91A of this title. Unless otherwise  
22 provided by this subparagraph, class AA licensed  
23 wrecker services performing consensual tows shall be  
24 subject to the provisions of this section.

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

8        3. This special lien shall be subordinate to any perfected  
9 security interest unless the claimant complies with the requirements  
10 of this section. Failure to comply with any requirements of this  
11 section shall result in denial of any title application and cause  
12 the special lien to be subordinate to any perfected lien. Upon such  
13 denial, the applicant shall be entitled to one resubmission of the  
14 title application within fifteen (15) business days of receipt of  
15 the denial, and proceed to comply with the requirements of this  
16 section. In the event of a denial, the Notice of Possessory Lien  
17 and the Notice of Sale may be mailed on the same day in separate  
18 envelopes and storage charges shall only be charged from the date of  
19 resubmission; however, before a Notice of Sale is to be mailed, the  
20 personal property must have been possessed by the possessory lien  
21 claimant for at least twenty-one (21) days. Furthermore, if the  
22 denial was due to error by the party submitting the title  
23 application, then no additional fee for the resubmission shall be  
24

1 charged to the property owner. "Failure to comply" includes, but is  
2 not limited to:

- 3 a. failure to timely provide additional documentation  
4 supporting or verifying any entry on submitted forms  
5 as requested by the Tax Commission, including but not  
6 limited to United States Postal Service proof of  
7 return receipt requested such as Form 3811 or United  
8 States Postal Service electronic equivalent,
- 9 b. failure to provide the documentation supporting lawful  
10 possession as defined in paragraph 3 of subsection H  
11 of this section,
- 12 c. claimant or the agent being other than the individual  
13 who provided the service giving rise to the special  
14 lien, as in paragraph 2 of this subsection,
- 15 d. claimant not being in possession of the vehicle,
- 16 e. notice of lien not filed in accordance with paragraph  
17 4 of this subsection, or
- 18 f. foreclosure notification and proceedings not  
19 accomplished in accordance with paragraph 6 of this  
20 section.

21 4. Any person claiming the special lien provided in paragraph 2  
22 of this subsection shall mail a notice of such lien, no later than  
23 sixty (60) days after the first services are rendered, by regular,  
24 first-class United States mail, and by certified mail, return

1 receipt requested, to all interested parties who reside at separate  
2 locations. If services provided are pursuant to a contract  
3 primarily for the purpose of storage or rental of space, the  
4 beginning date of the sixty-day period provided in the previous  
5 sentence shall be the first day of the first period or partial  
6 period for which rental or storage charges remain unpaid. The  
7 notice shall be in writing and shall contain, but not be limited to,  
8 the following:

- 9 a. a statement that the notice is a Notice of Possessory  
10 Lien,
- 11 b. the complete legal name, physical and mailing address,  
12 and telephone number of the claimant,
- 13 c. the complete legal name, physical and mailing address  
14 of the person who requested that the claimant render  
15 service to the owner by furnishing material, labor or  
16 skill, storage, or rental space, or the date the  
17 property was abandoned if the claimant did not render  
18 any other service,
- 19 d. a description of the article of personal property,  
20 including a photograph if the property is Section 91  
21 Personal Property, and the complete physical and  
22 mailing address of the location of the article of  
23 personal property,

- 1 e. an itemized statement describing the date or dates the  
2 labor or services were performed and material  
3 furnished, and the charges claimed for each item, the  
4 totals of which shall equal the total compensation  
5 claimed,
- 6 f. a statement by the claimant that the materials, labor  
7 or skill furnished, or arrangement for storage or  
8 rental of space, was authorized by the owner of the  
9 personal property and was in fact provided or  
10 performed, and written proof of authority to perform  
11 the work, labor or service, or that the property was  
12 abandoned by the owner if the claimant did not render  
13 any other service, and that storage or rental fees  
14 will accrue as allowed by law, and
- 15 g. the signature of the claimant which shall be notarized  
16 and, if applicable, the signature of the claimant's  
17 attorney. If the claimant is a business, then the  
18 name of the contact person representing the business  
19 must be shown. In place of an original signature and  
20 notary seal, a digital or electronic signature or seal  
21 shall be accepted.

22 5. For services rendered or vehicles abandoned on or after  
23 November 1, 2005, storage charges or charges for rental of space,  
24 unless agreed to by contract as part of an overall transaction or

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

15 6. The lien may be foreclosed by a sale of such personal  
16 property upon the notice and in the manner following: The Notice of  
17 Sale shall be in writing and shall contain, but not be limited to:

- 18 a. a statement that the notice is a Notice of Sale,
- 19 b. the names of all interested parties known to the  
20 claimant,
- 21 c. a description of the property to be sold, including a  
22 photograph if the property is Section 91 Personal  
23 Property and if the condition of such property has  
24 materially changed since the mailing of Notice of



1 Possessory Lien required pursuant to paragraph 4 of  
2 this subsection,

3 d. a notarized statement of the nature of the work, labor  
4 or service performed, material furnished, or storage  
5 or rental of space, and the date thereof, and the name  
6 of the person who authorized the work, labor or  
7 service performed, or the storage or rental  
8 arrangement, and written proof of authority to perform  
9 the work, labor or service, or that the property was  
10 abandoned if the claimant did not render any other  
11 service,

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

13 f. the name, complete physical address, mailing address,  
14 and telephone number of the party foreclosing such  
15 lien. If the claimant is a business, then the name of  
16 the contact person representing the business must be  
17 shown. In place of an original signature and notary  
18 seal, a digital or electronic signature or seal shall  
19 be accepted, and

20 g. itemized charges which shall equal the total  
21 compensation claimed.

22 7. Such Notice of Sale shall be posted in two public places in  
23 the county where the property is to be sold at least ten (10) days  
24 before the time therein specified for such sale, and a copy of the

1 notice shall be mailed to all interested parties at their last-known  
2 post office address by regular, first-class United States mail and  
3 by certified mail, return receipt requested, at least ten (10) days  
4 before the date of the sale. If the item of personal property is a  
5 manufactured home, notice shall also be sent by certified mail to  
6 the county treasurer and to the county assessor of the county where  
7 the manufactured home is located.

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

15 9. Any interested party shall be permitted to inspect and  
16 verify the services rendered by the claimant prior to the sale of  
17 the article of personal property during normal business hours. The  
18 lienholder shall be allowed to retrieve the Section 91 Personal  
19 Property without being required to bring the title into the  
20 lienholder's name, if the lienholder provides proof it is a  
21 lienholder and any payment due the claimant for lawful charges where  
22 the claimant has complied with the requirements of this section.  
23 Upon the release of personal property to an insurer or  
24 representative of the insurer, wrecker operators shall be exempt

1 from all liability and shall be held harmless for any losses or  
2 claims of loss.

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

5 11. Proceedings for foreclosure under this act shall be  
6 commenced no sooner than ten (10) days and no later than thirty (30)  
7 days after the Notice of Possessory Lien has been mailed as  
8 evidenced by certified mail. The date actually sold shall be within  
9 sixty (60) days from the date of the Notice of Sale as evidenced by  
10 certified mail.

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 which the service was  
13                  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 acknowledgement of receipt of a notice that  
18 the article may be subject to repossession. The notice and  
19 acknowledgement 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. If a vehicle, all-terrain vehicle, utility 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 the State of Oklahoma, but  
2 there is no active lien recorded on the certificate of title,  
3 Section 91A of this title will apply instead of this section.  
4 Likewise, if there is an active lien recorded on the certificate of  
5 title but the lien is over fifteen (15) years old and the property  
6 is not a manufactured home, Section 91A of this title will apply  
7 instead of this section.

8       2. If personal property that otherwise would be covered by this  
9 section has been registered by the Tax Commission or by a federally  
10 recognized Indian tribe in the State of Oklahoma, and there is a  
11 lien of record but no certificate of title has been issued, Section  
12 91A of this title will apply instead of this section.

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

17       E. A person who knowingly makes a false statement of a material  
18 fact regarding the furnishing of storage, rental space, material,  
19 labor or skill for the protection, improvement, safekeeping, towing,  
20 right to occupy space, storage or carriage thereof in a proceeding  
21 under this section, or attempts to use or uses the provisions of  
22 this section to foreclose an owner or lienholder's interest in a  
23 vehicle knowing that any of the statements made in the proceeding  
24 are false, upon conviction, shall be guilty of a felony.



1 F. Upon receipt of notice of legal proceedings, the Tax  
2 Commission shall cause the sale process to be put on hold until  
3 notice of resolution of court proceedings is received from the  
4 court. If such notice of commencement of court proceedings is not  
5 filed with the Tax Commission, the possessory lien sale process may  
6 continue.

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

8 H. For purposes of this section:

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

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

16 3. "Lawfully in possession" means a person has documentation  
17 from the owner or the owner's authorized agent, or an insurance  
18 company or its authorized agent, authorizing the furnishing of  
19 material, labor or storage, or that the property was authorized to  
20 be towed to a repair facility. If the person lacks such  
21 documentation, he or she shall not be lawfully in possession of the  
22 Section 91 Personal Property and shall not be entitled to a special  
23 lien as set forth in this section; and  
24

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

5        I. For purposes of this section, the United States Postal  
6        Service approved electronic equivalent of proof of return receipt  
7        requested Form 3811 shall satisfy return receipt requested  
8        documentation requirements.

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

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

20       SECTION 2.        AMENDATORY        42 O.S. 2021, Section 91a, is  
21       amended to read as follows:

22       Section 91a. A. 1. a. This section applies to all types of  
23       personal property other than:  
24

(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.

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

(1) does not have a certificate of title,

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

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

(4) is otherwise excluded by subparagraph b of paragraph 1 of subsection A of Section 91 of this title or subsection D of Section 91 of this title.

c. If personal property has a certificate of title, or would be required to have a certificate of title under Oklahoma law, and is apparently covered both by this 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 of the title application within thirty  
8 (30) business days of receipt of the denial, and  
9 proceed to comply with the requirements of this  
10 section. In the event of a denial, the Notice of  
11 Possessory Lien and the Notice of Sale may be mailed  
12 on the same day in separate envelopes and storage  
13 charges shall only be charged from the date of  
14 resubmission; however, before a Notice of Sale is to  
15 be mailed, the personal property must have been  
16 possessed by the possessory lien claimant for at least  
17 twenty-one (21) days. Furthermore, if the denial was  
18 due to error by the party submitting the title  
19 application, then no additional fee for the  
20 resubmission shall be charged to the property owner.  
21 "Failure to comply" includes, but is not limited to:  
22 (1) failure to timely provide additional  
23 documentation supporting or verifying any entry  
24

on submitted forms as requested by the Tax  
Commission,

(2) failure to provide the documentation supporting  
lawful possession as outlined in paragraph 3 of  
subsection H of this section,

(3) claimant being other than the individual who  
provided the service giving rise to the special  
lien, as in subparagraph a of this paragraph,

(4) claimant not being in possession of the vehicle,  
or

(5) notification and proceedings not accomplished in  
accordance with subparagraph c of this paragraph,  
and paragraph 3 of this subsection.

c. Any person claiming a lien under this section shall  
request, within five (5) business days of performing  
any service or work on the property, the Tax  
Commission or other appropriate license agency to  
furnish the name and address of the current owner of  
and any lienholder upon the property. The Motor  
Vehicle Division of the Tax Commission or appropriate  
license agency shall respond in person or by mail to  
the lien claimant within ten (10) business days of the  
receipt of the request for information. The Tax  
Commission shall render assistance to ascertain

1 ownership, if needed. The lien claimant shall send,  
2 within seven (7) business days of receipt of the  
3 requested information from the Oklahoma Tax Commission  
4 or other license agency, a notice of the location of  
5 the property by certified mail with return receipt  
6 requested, postage prepaid, to the owner and any  
7 lienholder of the vehicle at the addresses furnished.  
8 The lien claimant may charge Twenty Dollars (\$20.00)  
9 for processing plus the cost of postage if the notice  
10 is timely sent pursuant to the requirements of this  
11 subparagraph in addition to fees regulated by the  
12 Oklahoma Corporation Commission for licensed wreckers.  
13 If the lien claimant is unable to meet the time  
14 requirements due to a lack of or an altered vehicle  
15 identification number on the property, the lien  
16 claimant shall proceed diligently to obtain the proper  
17 vehicle identification number and shall meet the time  
18 requirements on the notice once the vehicle  
19 identification number is known. If the lien claimant  
20 is required to send additional notices because of  
21 change of ownership or lienholder after it has timely  
22 complied with the requirements of this subparagraph,  
23 the lien claimant shall remain in compliance if such  
24 additional notices are sent within the required time

1 periods from the date of discovery of the new owners  
2 or lienholders. The notice shall be in writing and  
3 shall contain, but not be limited to, the following:

- 4 (1) a statement that the notice is a Notice of  
5 Possessory Lien,
- 6 (2) the complete legal name, physical and mailing  
7 address, and telephone number of the claimant,
- 8 (3) the complete legal name, physical and mailing  
9 address of the person who requested that the  
10 claimant render service to the owner by  
11 furnishing material, labor or skill, storage, or  
12 rental space, or the date the property was  
13 abandoned if the claimant did not render any  
14 other service,
- 15 (4) a description of the article of personal  
16 property, and the complete physical and mailing  
17 address of the location of the article of  
18 personal property,
- 19 (5) the nature of the work, labor or service  
20 performed, material furnished, or the storage or  
21 rental arrangement, and the date thereof, and  
22 written proof of authority to perform the work,  
23 labor or service provided that, in the case of a  
24 law enforcement directed tow, the logbook entry



1                   prescribed in OAC 595:25-5-5 or the tow ticket as  
2                   defined by the Corporation Commission shall serve  
3                   as written proof of authority,

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

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

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

1 by law enforcement to the claimant or the date which  
2 claimant starts charging storage, whichever is  
3 earlier. A lien claimant shall have an extension of  
4 ten (10) business days to send the notice required in  
5 this subparagraph if a state of emergency has been  
6 declared in the county in which the property is  
7 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,  
20 c. the nature of the work, labor or service performed,  
21 material furnished, or the storage or rental  
22 arrangement, and the date thereof, and written proof  
23 of authority to perform the work, labor or service  
24 provided. In the case of a law enforcement directed

1            tow, the logbook entry prescribed in OAC 595:25-5-5 or  
2            the tow ticket as defined by the Corporation  
3            Commission, shall serve as written proof of authority,  
4            d. the time and place of sale,  
5            e. the name, telephone number, physical address and  
6            mailing address of the claimant, and agent or  
7            attorney, if any, foreclosing such lien. If the  
8            claimant is a business, then the name of the contact  
9            person representing the business must be shown. In  
10           place of an original signature and notary seal, a  
11           digital or electronic signature or seal shall be  
12           accepted, and  
13           f. itemized charges which shall equal the total  
14           compensation claimed.

15        4.    a. Such Notice of Sale shall be posted in two public  
16           places in the county where the property is to be sold  
17           at least ten (10) days before the time therein  
18           specified for such sale, and a copy of the notice  
19           shall be mailed to the owner and any other party  
20           claiming any interest in the property, if known, at  
21           their last-known post office address, by certified  
22           mail, return receipt requested, at least ten (10) days  
23           before the time therein specified for such sale. If  
24           the item of personal property is a manufactured home,

1 notice shall also be sent by certified mail to the  
2 county treasurer and to the county assessor of the  
3 county where the manufactured home is located.

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

15 c. In the case of personal property subject to this  
16 section for which a certificate of title has been  
17 issued by any jurisdiction, a party who claims any  
18 interest in the property shall include all owners of  
19 the article of personal property as indicated by the  
20 certificate of title; lien debtors, if any, other than  
21 the owners; any lienholder whose lien is noted on the  
22 face of the certificate of title; and any other person  
23 having any interest in the article of personal  
24 property, of whom the claimant has actual notice.

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

18          e.   When personal property is of a type that Oklahoma law  
19          requires to be titled, the owner of record of that  
20          property is unknown, and the jurisdiction of titling  
21          and owner of record cannot be determined by ordinary  
22          means and also, if applicable, cannot be determined in  
23          accordance with the preceding subparagraph, then the  
24          special lien may be foreclosed by publication of a

1 legal notice in a legal newspaper in the county where  
2 the personal property is located, as defined in  
3 Section 106 of Title 25 of the Oklahoma Statutes.  
4 Such notice shall include the description of the  
5 property by year, make, vehicle identification number  
6 if available from the property, the name of the  
7 individual who may be contacted for information, and  
8 the telephone number of that person or the address  
9 where the vehicle is located. The legal notice shall  
10 be published once per week for three (3) consecutive  
11 weeks. As soon as circumstances exist as described in  
12 the first sentence of this subparagraph, the first  
13 date of publication may occur even if the special lien  
14 has not accrued for over thirty (30) days. The first  
15 date available for public sale of the vehicle is the  
16 day following publication of the final notice, but no  
17 fewer than thirty (30) days after the lien has  
18 accrued. When the owner of record is unknown, the  
19 Notice of Sale nevertheless must be completed and  
20 mailed to any known interested party by certified  
21 mail. For purposes of this paragraph, interested  
22 parties shall include all persons described in  
23 subparagraph b or subparagraph c of this paragraph,  
24 whichever is applicable, with the exception of any

1 owner who is unknown. Except in circumstances  
2 described in paragraph 7 of this subsection that  
3 provide for a shorter time period, the Notice of Sale  
4 shall be posted in two public places in the county  
5 where the property is to be sold at least ten (10)  
6 days before the time therein specified for such sale,  
7 and the Notice of Sale shall not be mailed until at  
8 least thirty (30) days after the lien has accrued.

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

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

14 7. Notwithstanding any other provision of law, proceedings for  
15 foreclosures for the storage of junk vehicles towed and stored  
16 pursuant to Section 955 of Title 47 of the Oklahoma Statutes by  
17 Class AA wreckers listed with the Motor Vehicle Division of the  
18 Department of Public Safety, may be commenced five (5) days after  
19 the lien has accrued. For purposes of this paragraph, "junk  
20 vehicles" means any vehicle that is more than ten (10) years old if  
21 the cost of a comparable vehicle would be less than Three Hundred  
22 Dollars (\$300.00) as quoted in the latest edition of the National  
23 Automobile Dealers Association Official Used Car Guide or latest  
24

1 monthly edition of any other nationally recognized published  
2 guidebook, adjusting to the condition of the vehicle.

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

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

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

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



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

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

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

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

- 1           (2) that the property was in the possession of the  
2           person claiming the lien but such property was  
3           removed without his or her 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 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 Tax Commission or by a federally  
23 recognized Indian tribe in Oklahoma, and there is an active lien  
24

1 recorded on the certificate of title, but the lien is over fifteen  
2 (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 Tax Commission or by a federally recognized Indian tribe in the  
6 State of Oklahoma, and there is a lien of record but no certificate  
7 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 Tax Commission or a federally recognized Indian tribe in  
11 the State of Oklahoma, and no certificate of title has been issued,  
12 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.

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 services  
7 taking possession of a vehicle pursuant to an agreement with, or at  
8 the direction of, or dispatched by a state or local law enforcement  
9 or government agency, or pursuant to the abandoned vehicle removal  
10 provisions of Section 954A of Title 47 of the Oklahoma Statutes with  
11 respect to all types of personal property, regardless of whether  
12 that personal property has a certificate of title.

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

18       E. A person who knowingly makes a false statement of a material  
19 fact regarding the furnishing of storage, rental space, material,  
20 labor or skill for the protection, improvement, safekeeping, towing,  
21 right to occupy space, storage or carriage thereof in a proceeding  
22 under this section, or attempts to use or uses the provisions of  
23 this section to foreclose an owner or lienholder's interest in a  
24

1 vehicle knowing that any of the statements made in the proceeding  
2 are false, upon conviction, shall be guilty of a felony.

3 F. Upon receipt of notice of legal proceedings, the Tax  
4 Commission shall cause the sale process to be put on hold until  
5 notice of resolution of court proceedings is received from the  
6 court. If such notice of commencement of court proceedings is not  
7 filed with the Tax Commission, the possessory lien sale process may  
8 continue.

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

10 H. For purposes of this section:

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

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

18 3. "Lawfully in possession" means a person has documentation  
19 from the owner or the owner's authorized agent, or an insurance  
20 company or its authorized agent, authorizing the furnishing of  
21 material, labor or storage, or that the property was authorized to  
22 be towed to a repair facility.

23 Class AA wrecker services taking possession of a vehicle  
24 pursuant to an agreement with, or at the direction of, or dispatched

1 by, a state or local law enforcement or government agency, or  
2 pursuant to the abandoned vehicle removal provisions of Section 954A  
3 of Title 47 of the Oklahoma Statutes, shall be considered lawfully  
4 in possession of the vehicle. If the person lacks such  
5 documentation, the procedures established by this section shall not  
6 apply; and

7 4. "Itemized charges" means total parts, total labor, total  
8 towing fees, total storage fees, total processing fees and totals of  
9 any other fee groups, the sum total of which shall equal the  
10 compensation claimed.

11 I. For purposes of this section, the United States Postal  
12 Service approved electronic equivalent of proof of return receipt  
13 requested Form 3811 shall satisfy return receipt requested  
14 documentation requirements.

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



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

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

SECTION 3. This act shall become effective November 1, 2022.

58-2-10340 JL 02/09/22