

1 ENGROSSED HOUSE
2 BILL NO. 1927

By: Sims of the House

3 and

4 Rogers of the Senate

5
6 An Act relating to liens; amending 42 O.S. 2021,
7 Sections 91 and 91A, which relate to liens on
8 personal property; requiring property to be
9 possessed for a certain number of days before
10 Notice of Sale can be mailed; prohibiting
11 additional fees for resubmission of title
12 application under certain circumstances; providing
13 that a Notice of Possessory Lien and the Notice of
14 Sale may be mailed on the date of title application
15 submission; requiring in the event of title
16 application resubmissions the storage charges shall
17 only be charged from the date of resubmission; and
18 providing an effective date.

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

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

22 Section 91.

23 A. 1. a. This section applies to every vehicle, all-terrain
24 vehicle, utility vehicle, manufactured home,
motorcycle, boat, outboard motor, or trailer that has
a certificate of title issued by the Oklahoma Tax
Commission or by a federally recognized Indian tribe
in the State of Oklahoma, except as otherwise provided

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

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

23 2. Any person who, while lawfully in possession of an article
24 of Section 91 Personal Property, renders any service to the owner

1 thereof by furnishing storage, rental space, material, labor or
2 skill for the protection, improvement, safekeeping, towing, right to
3 occupy space, storage or carriage thereof, has a special lien
4 thereon, dependent on possession, for the compensation, if any,
5 which is due to such person from the owner for such service.

6 3. This special lien shall be subordinate to any perfected
7 security interest unless the claimant complies with the requirements
8 of this section. Failure to comply with any requirements of this
9 section shall result in denial of any title application and cause
10 the special lien to be subordinate to any perfected lien. Upon such
11 denial, the applicant shall be entitled to one resubmission of the
12 title application within fifteen (15) business days of receipt of
13 the denial, and proceed to comply with the requirements of this
14 section. In the event of a denial, the Notice of Possessory Lien
15 and the Notice of Sale may be mailed on the same day in separate
16 envelopes and storage charges shall only be charged from the date of
17 resubmission; however, before a Notice of Sale is to be mailed, the
18 personal property must have been possessed by the possessory lien
19 claimant for at least twenty-one (21) days. Furthermore, if the
20 denial was due to error by the party submitting the title
21 application, then no additional fee for the resubmission shall be
22 charged to the property owner. "Failure to comply" includes, but is
23 not limited to:
24

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

4. Any person claiming the special lien provided in paragraph 2 of this subsection shall mail a notice of such lien, no later than sixty (60) days after the first services are rendered, by regular, first-class United States mail, and by certified mail, return receipt requested, to all interested parties who reside at separate locations. If services provided are pursuant to a contract

1 primarily for the purpose of storage or rental of space, the
2 beginning date of the sixty-day period provided in the previous
3 sentence shall be the first day of the first period or partial
4 period for which rental or storage charges remain unpaid. The
5 notice shall be in writing and shall contain, but not be limited to,
6 the following:

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

1 totals of which shall equal the total compensation
2 claimed,

3 f. a statement by the claimant that the materials, labor
4 or skill furnished, or arrangement for storage or
5 rental of space, was authorized by the owner of the
6 personal property and was in fact provided or
7 performed, and written proof of authority to perform
8 the work, labor or service, or that the property was
9 abandoned by the owner if the claimant did not render
10 any other service, and that storage or rental fees
11 will accrue as allowed by law, and

12 g. the signature of the claimant which shall be notarized
13 and, if applicable, the signature of the claimant's
14 attorney. If the claimant is a business, then the
15 name of the contact person representing the business
16 must be shown. In place of an original signature and
17 notary seal, a digital or electronic signature or seal
18 shall be accepted.

19 5. For services rendered or vehicles abandoned on or after
20 November 1, 2005, storage charges or charges for rental of space,
21 unless agreed to by contract as part of an overall transaction or
22 arrangement that was primarily for the purpose of storage of the
23 Section 91 Personal Property or rental of space, may only be
24 assessed beginning with the day that the Notice of Possessory Lien

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

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

- 15 a. a statement that the notice is a Notice of Sale,
- 16 b. the names of all interested parties known to the
17 claimant,
- 18 c. a description of the property to be sold, including a
19 photograph if the property is Section 91 Personal
20 Property and if the condition of such property has
21 materially changed since the mailing of Notice of
22 Possessory Lien required pursuant to paragraph 4 of
23 this subsection,

24

- 1 d. a notarized statement of the nature of the work, labor
2 or service performed, material furnished, or storage
3 or rental of space, and the date thereof, and the name
4 of the person who authorized the work, labor or
5 service performed, or the storage or rental
6 arrangement, and written proof of authority to perform
7 the work, labor or service, or that the property was
8 abandoned if the claimant did not render any other
9 service,
- 10 e. the date, time, and exact physical location of sale,
- 11 f. the name, complete physical address, mailing address,
12 and telephone number of the party foreclosing such
13 lien. If the claimant is a business, then the name of
14 the contact person representing the business must be
15 shown. In place of an original signature and notary
16 seal, a digital or electronic signature or seal shall
17 be accepted, and
- 18 g. itemized charges which shall equal the total
19 compensation claimed.

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

1 by certified mail, return receipt requested, at least ten (10) days
2 before the date of the sale. If the item of personal property is a
3 manufactured home, notice shall also be sent by certified mail to
4 the county treasurer and to the county assessor of the county where
5 the manufactured home is located.

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

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

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

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

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

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

1 producing or repairing an article of personal
2 property, or for other specific property-related
3 services covered by this section,

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

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

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

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

- 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
24

1 not affect the rights of innocent, intervening purchasers without
2 notice.

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

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

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

24

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

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

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

20 D. 1. If a vehicle, all-terrain vehicle, utility vehicle,
21 manufactured home, motorcycle, boat, outboard motor, or trailer has
22 a certificate of title issued by the Tax Commission or by a
23 federally recognized Indian tribe in the State of Oklahoma, but
24 there is no active lien recorded on the certificate of title,

1 Section 91A of this title will apply instead of this section.

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

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

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

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

23 F. Upon receipt of notice of legal proceedings, the Tax
24 Commission shall cause the sale process to be put on hold until

1 notice of resolution of court proceedings is received from the
2 court. If such notice of commencement of court proceedings is not
3 filed with the Tax Commission, the possessory lien sale process may
4 continue.

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

6 H. For purposes of this section:

7 1. "Possession" includes actual possession and constructive
8 possession;

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

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

22 4. "Itemized charges" means total parts, total labor, total
23 towing fees, total storage fees, total processing fees and totals of
24

1 any other fee groups, the sum total of which shall equal the
2 compensation claimed.

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

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

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

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

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

22 (1) farm equipment as defined in Section 91.2 of this
23 title, and
24

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

3 b. This section applies to any vehicle, all-terrain
4 vehicle, utility vehicle, manufactured home,
5 motorcycle, boat, outboard motor, or trailer that is
6 excluded from coverage under subsection A of Section
7 91 of this title because the personal property:

8 (1) does not have a certificate of title,

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

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

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

19 c. If personal property has a certificate of title, or
20 would be required to have a certificate of title under
21 Oklahoma law, and is apparently covered both by this
22 section and by Sections 191 through 200 of this title,
23 the procedures set out in this section shall apply
24 instead of Sections 191 through 200 of this title. If

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

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

1 with any requirements of this section shall result in
2 denial of any title application and cause the special
3 lien to be subordinate to any perfected lien. Upon
4 such denial, the applicant shall be entitled to one
5 resubmission of the title application within thirty
6 (30) business days of receipt of the denial, and
7 proceed to comply with the requirements of this
8 section. In the event of a denial, the Notice of
9 Possessory Lien and the Notice of Sale may be mailed
10 on the same day in separate envelopes and storage
11 charges shall only be charged from the date of
12 resubmission; however, before a Notice of Sale is to
13 be mailed, the personal property must have been
14 possessed by the possessory lien claimant for at least
15 twenty-one (21) days. Furthermore, if the denial was
16 due to error by the party submitting the title
17 application, then no additional fee for the
18 resubmission shall be charged to the property owner.
19 "Failure to comply" includes, but is not limited to:
20 (1) failure to timely provide additional
21 documentation supporting or verifying any entry
22 on submitted forms as requested by the Tax
23 Commission,
24

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

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

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

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

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

The lien claimant shall not be required to send the
notice required in this subparagraph if the property
is released to an interested party before the notice
is mailed and no additional charges or fees continue
to accrue. If a law enforcement agency has the
property towed to a law enforcement facility, the
person claiming a lien under this section shall not be
required to send notice until the property is released
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 send the notice required in
4 this subparagraph if a state of emergency has been
5 declared in the county in which the property is
6 located.

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

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

- 13 a. the names of the owner and any other known party or
14 parties who may claim any interest in the property,
- 15 b. a description of the property to be sold, including a
16 visual inspection or a photograph if the property is a
17 motor vehicle, and the physical location of the
18 property,
- 19 c. the nature of the work, labor or service performed,
20 material furnished, or the storage or rental
21 arrangement, and the date thereof, and written proof
22 of authority to perform the work, labor or service
23 provided. In the case of a law enforcement directed
24 tow, the logbook entry prescribed in OAC 595:25-5-5 or

1 the tow ticket as defined by the Corporation
2 Commission, shall serve as written proof of authority,
3 d. the time and place of sale,
4 e. the name, telephone number, physical address and
5 mailing address of the claimant, and agent or
6 attorney, if any, foreclosing such lien. If the
7 claimant is a business, then the name of the contact
8 person representing the business must 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 f. itemized charges which shall equal the total
13 compensation claimed.

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

1 county treasurer and to the county assessor of the
2 county where the manufactured home is located.

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

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

- d. When the jurisdiction of titling for a vehicle, all-terrain vehicle, motorcycle, boat, outboard motor, or trailer that is five (5) model years old or newer, or a manufactured home that is fifteen (15) model years old or newer, cannot be determined by ordinary means, the claimant, the agent of the claimant, or the attorney of the claimant, shall request, in writing, that the Oklahoma Tax Commission Motor Vehicle Division ascertain the jurisdiction where the vehicle or manufactured home is titled. The Oklahoma Tax Commission Motor Vehicle Division shall, within fourteen (14) days from the date the request is received, provide information as to the jurisdiction where the personal property is titled. If the Oklahoma Tax Commission Motor Vehicle Division is unable to provide the information, it shall provide notice that the record is not available.
- e. When personal property is of a type that Oklahoma law requires to be titled, the owner of record of that property is unknown, and the jurisdiction of titling and owner of record cannot be determined by ordinary means and also, if applicable, cannot be determined in accordance with the preceding subparagraph, then the 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~~ commence in twenty (20) days after
13 the lien has accrued, except 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.
23
24

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

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

6 9. This section applies to class AA licensed wrecker 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, 2023.

Passed the House of Representatives the 8th day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2023.

Presiding Officer of the Senate