1	STATE OF OKLAHOMA							
2	1st Session of the 60th Legislature (2025)							
3	SENATE BILL 511 By: Bergstrom							
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7	AS INTRODUCED							
8	An Act relating to liens; amending 42 O.S. 2021,							
9	which relates to liens for service on personal							
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11	and providing an effective date.							
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14	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:							
15	SECTION 1. AMENDATORY 42 O.S. 2021, Section 91A, as last							
16	amended by Section 29, Chapter 452, O.S.L. 2024 (42 O.S. Supp. 2024,							
17	Section 91A), is amended to read as follows:							
18	Section 91A. A. 1. a. This section applies to all types of							
19	personal property other than:							
20	(1) farm equipment as defined in Section 91.2 of this							
21	title, and							
22	(2) "Section 91 Personal Property" as defined in							
23	Section 91 of this title.							
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1 This section applies to any vehicle, all-terrain b. 2 vehicle, utility vehicle, manufactured home, 3 motorcycle, boat, outboard motor, or trailer that is 4 excluded from coverage under subsection A of Section 5 91 of this title because the personal property: 6 (1)does not have a certificate of title, 7 (2) has a certificate of title but does not have an 8 active lien recorded on the certificate of title, 9 (3) has a certificate of title that is not issued by 10 Service Oklahoma or by a federally recognized 11 Indian tribe in the State of Oklahoma, or 12 (4) is otherwise excluded by subparagraph b of 13 paragraph 1 of subsection A of Section 91 of this 14 title or subsection D of Section 91 of this 15 title. 16 с. If personal property has a certificate of title, or 17 would be required to have a certificate of title under 18 Oklahoma law, and is apparently covered both by this 19 section and by Sections 191 through 200 of this title, 20 the procedures set out in this section shall apply 21 instead of Sections 191 through 200 of this title. If 22 personal property without a certificate of title and 23 not required to be titled under Oklahoma law is 24 covered both by this section and Sections 191 through - م

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

- 4 2. a. Any person who, while lawfully in possession of an 5 article of personal property to which this section 6 applies, renders any service to the owner thereof by 7 furnishing storage, rental space, material, labor or 8 skill for the protection, improvement, safekeeping, 9 towing, right to occupy space, storage or carriage 10 thereof, has a special lien thereon, dependent on 11 possession, for the compensation, if any, which is due 12 to such person from the owner for such service. 13 Charges owed under a contract primarily for the 14 purpose of storage or rental of space shall be accrued 15 only at the regular periodic rate for storage or 16 rental as provided in the contract, adjusted for 17 partial periods of storage or rental.
- b. Except for Class AA licensed wrecker towing charges,
  the special lien shall be subordinate to any perfected
  security interest unless the claimant complies with
  the requirements of this section. Failure to comply
  with any requirements of this section shall result in
  denial of any title application and cause the special
  lien to be subordinate to any perfected lien. Upon

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

 $\frac{(2)}{(b)}$  failure to provide the documentation

supporting lawful possession as outlined in paragraph 3 of subsection H of this section,

Service Oklahoma,

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1	(3) (c) claimant being other than the				
2	individual who provided the service giving				
3	rise to the special lien, as in subparagraph				
4	a of this paragraph,				
5	(4) (d) claimant not being in possession of				
6	the vehicle, or				
7	(5) (e) notification and proceedings not				
8	accomplished in accordance with subparagraph				
9	c of this paragraph, and paragraph 3 of this				
10	subsection, and				
11	(2) Failure to comply shall not include:				
12	(a) clerical errors that do not affect or				
13	reflect the true intent of the notice, or				
14	(b) events out of the control of the claimant.				
15	Such events may include, but not be limited				
16	to, changes in ownership of the property or				
17	interested party information while such				
18	property is in the possession of the				
19	claimant.				
20	c. Any person claiming a lien under this section shall				
21	request, within five (5) business days of performing				
22	any service or work on the property, Service Oklahoma				
23	or other appropriate license agency to furnish the				
24 2 -	name and address of the current owner of and any				

1 lienholder upon the property. Service Oklahoma or an 2 appropriate license agency shall respond in person or 3 by mail to the lien claimant within ten (10) business 4 days of the receipt of the request for information. 5 Service Oklahoma shall render assistance to ascertain 6 ownership, if needed. The lien claimant shall send, 7 within seven (7) business days of receipt of the 8 requested information from Service Oklahoma or other 9 license agency, a notice of the location of the 10 property by certified mail with return receipt 11 requested, postage prepaid, to the owner and any 12 lienholder of the vehicle at the addresses furnished. 13 The lien claimant may charge not more than Fifty 14 Dollars (\$50.00) for processing plus the cost of 15 postage if the notice is timely sent pursuant to the 16 requirements of this subparagraph in addition to fees 17 regulated by the Corporation Commission for licensed 18 wreckers. If the lien claimant is unable to meet the 19 time requirements due to a lack of or an altered 20 vehicle identification number on the property, the 21 lien claimant shall proceed diligently to obtain the 22 proper vehicle identification number and shall meet 23 the time requirements on the notice once the vehicle 24 identification number is known. If the lien claimant

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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 or lienholders. The notice shall be in writing and shall contain, but not be limited to, the following: a statement that the notice is a Notice of (1)Possessory Lien, (2) the complete legal name, physical and mailing address, and telephone number of the claimant, the complete legal name, physical and mailing (3) address of the person who requested that the claimant render service to the owner by furnishing material, labor or skill, storage, or

rental space, or the date the property was abandoned if the claimant did not render any other service,

> (4) a description of the article of personal property, and the complete physical and mailing address of the location of the article of personal property,

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1 the nature of the work, labor or service (5) 2 performed, material furnished, or the storage or 3 rental arrangement, and the date thereof, and 4 written proof of authority to perform the work, 5 labor or service provided that, in the case of a 6 law enforcement directed tow, the logbook entry 7 prescribed in OAC 595:25-5-5 or the tow ticket as 8 defined by the Corporation Commission shall serve 9 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

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1 is released to an interested party before the notice 2 is mailed and no additional charges or fees continue 3 to accrue. If a law enforcement agency has the 4 property towed to a law enforcement facility, the 5 person claiming a lien under this section shall not be 6 required to send notice until the property is released 7 by law enforcement to the claimant or the date which 8 claimant starts charging storage, whichever is 9 earlier. A lien claimant shall have an extension of 10 ten (10) business days to send the notice required in 11 this subparagraph if a state of emergency has been 12 declared in the county in which the property is 13 located.

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

17 The lien may be foreclosed by a sale of such personal 3. 18 property upon the notice and in the manner following: The notice 19 shall be in writing and shall contain, but not be limited to: 20 a. the names of the owner and any other known party or 21 parties who may claim any interest in the property, 22 a description of the property to be sold, including a b. 23 visual inspection or a photograph if the property is a

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motor vehicle, and the physical location of the property,

3 the nature of the work, labor or service performed, с. 4 material furnished, or the storage or rental 5 arrangement, and the date thereof, and written proof 6 of authority to perform the work, labor or service 7 provided. In the case of a law enforcement directed 8 tow, the logbook entry prescribed in OAC 595:25-5-5 or 9 the tow ticket as defined by the Corporation 10 Commission, shall serve as written proof of authority, 11 d. the time and place of sale,

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

- 20 f. itemized charges which shall equal the total 21 compensation claimed.
- 4. a. Such Notice of Sale shall be posted in two public
   places in the county where the property is to be sold
   at least ten (10) days before the time therein

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1 specified for such sale, and a copy of the notice 2 shall be mailed to the owner and any other party 3 claiming any interest in the property, if known, at 4 their last-known post office address, by certified 5 mail, return receipt requested, at least ten (10) days 6 before the time therein specified for such sale. If 7 the item of personal property is a manufactured home, 8 notice shall also be sent by certified mail to the 9 county treasurer and to the county assessor of the 10 county where the manufactured home is located. 11 In the case of any item of personal property without a b. 12 certificate of title and not required to be titled 13 under Oklahoma law, a party who claims any interest in 14 the property shall include all owners of the property; 15 any secured party who has an active financing 16 statement on file with the county clerk of Oklahoma 17 County listing one or more owners of the property by 18 legal name as debtors and indicating a collateral 19 description that would include the property; and any 20 other person having any interest in the personal 21 property, of whom the claimant has actual notice. 22 In the case of personal property subject to this с. 23 section for which a certificate of title has been 24 issued by any jurisdiction, a party who claims any

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1 interest in the property shall include all owners of 2 the article of personal property as indicated by the 3 certificate of title; lien debtors, if any, other than 4 the owners; any lienholder whose lien is noted on the 5 face of the certificate of title; and any other person 6 having any interest in the article of personal 7 property, of whom the claimant has actual notice. 8 d. When the jurisdiction of titling for a vehicle, all-9 terrain vehicle, motorcycle, boat, outboard motor, or 10 trailer that is five (5) model years old or newer, or 11 a manufactured home that is fifteen (15) model years 12 old or newer, cannot be determined by ordinary means, 13 the claimant, the agent of the claimant, or the 14 attorney of the claimant, shall request, in writing, 15 that Service Oklahoma ascertain the jurisdiction where 16 the vehicle or manufactured home is titled. Service 17 Oklahoma shall, within fourteen (14) days from the 18 date the request is received, provide information as 19 to the jurisdiction where the personal property is 20 titled. If Service Oklahoma is unable to provide the 21 information, it shall provide notice that the record 22 is not available.

When personal property is of a type that Oklahoma law

requires to be titled, the owner of record of that

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

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1 mailed to any known interested party by certified 2 mail. For purposes of this paragraph, interested 3 parties shall include all persons described in 4 subparagraph b or subparagraph c of this paragraph, 5 whichever is applicable, with the exception of any 6 owner who is unknown. Except in circumstances 7 described in paragraph 7 of this subsection that 8 provide for a shorter time period, the Notice of Sale 9 shall be posted in two public places in the county 10 where the property is to be sold at least ten (10) 11 days before the time therein specified for such sale, 12 and the Notice of Sale shall not be mailed until at 13 least thirty (30) days after the lien has accrued. 14 The lienor or any other person may in good faith become a 5.

<sup>15</sup> purchaser of the property sold.

16 6. Proceedings for foreclosure under this act shall commence in 17 twenty (20) days after the lien has accrued, except as provided 18 elsewhere in Oklahoma law.

Notwithstanding any other provision of law, proceedings for foreclosures for the storage of junk vehicles towed and stored pursuant to Section 955 of Title 47 of the Oklahoma Statutes by Class AA wreckers listed with the Motor Vehicle Division of the Department of Public Safety, may be commenced five (5) days after the lien has accrued. For purposes of this paragraph, "junk

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1 vehicles" means any vehicle that is more than ten (10) years old if 2 the cost of a comparable vehicle would be less than Three Hundred 3 Dollars (\$300.00) as quoted in the latest edition of the National 4 Automobile Dealers Association Official Used Car Guide or latest 5 monthly edition of any other nationally recognized published 6 guidebook, adjusting to the condition of the vehicle.

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

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

- 20 (1)the check or other written order for immediate 21 payment of money, copy thereof being attached, 22 was received for labor, material or supplies for 23 producing or repairing an article of personal
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1 property, or for other specific property-related 2 services covered by this section,

- (2) the check or other written order was not paid, and
- (3) the uttering of the check or other written order constituted the means for inducing the person, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the article of personal property.
- 11 2. Any person who renders service to the owner of an a. 12 article of personal property by furnishing storage, 13 rental space, material, labor, or skill for the 14 protection, improvement, safekeeping, towing, right to 15 occupy space, storage, or carriage thereof shall have 16 a special lien on such property pursuant to this 17 section if such property is removed from the person's 18 possession, without such person's written consent or 19 without payment for such service.
- b. The person claiming such lien shall, within five (5)
  days of such nonauthorized removal, file in the office
  of the county clerk of the county in which the
  property is located, a sworn statement including:
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- 1 (1) that services were rendered on or in relation to 2 the article of personal property by the person 3 claiming such lien,
  - (2) that the property was in the possession of the person claiming the lien but such property was removed without his or her written consent,
  - (3) an identifying description of the article of personal property on or in relation to which the service was rendered, and
- 10 that the debt for the services rendered on or in (4) 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.

3. The enforcement of the lien shall be within sixty (60) days after filing the lien in the manner provided by law for enforcing the lien of a security agreement and provided that the lien shall

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<sup>1</sup> not affect the rights of innocent, intervening purchasers without <sup>2</sup> notice.

3 С. 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 acknowledgment of receipt of a notice that 15 the article may be subject to repossession. The notice and 16 acknowledgment pursuant to this subsection shall be:

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 a. in writing and separate from the written contract for services, or

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

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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

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

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

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

7 3. This section applies if personal property to which Section
8 91 of this title otherwise would apply has been registered by
9 Service Oklahoma or by a federally recognized Indian tribe in the
10 State of Oklahoma, and there is a lien of record but no certificate
11 of title has been issued.

12 4. This section applies if personal property to which Section 13 91 of this title otherwise would apply has not been registered by 14 either Service Oklahoma or a federally recognized Indian tribe in 15 the State of Oklahoma, and no certificate of title has been issued, 16 but there is a lien of record.

17 5. This section applies to personal property that otherwise 18 would be covered by Section 91 of this title, except that the 19 services were rendered or the property was abandoned prior to 20 November 1, 2005.

6. This section applies to a vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer for which ownership cannot be determined by ordinary means or by Service Oklahoma Motor Vehicle Division, as

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provided in subparagraphs d and e of paragraph 4 of subsection A of this section, as applicable.

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

8. This section applies to salvage pools as defined in Section
7 591.2 of Title 47 of the Oklahoma Statutes.

9. This section applies to class AA licensed wrecker services taking possession of a vehicle pursuant to an agreement with, or at the direction of, or dispatched by a state or local law enforcement or government agency, or pursuant to the abandoned vehicle removal provisions of Section 954A of Title 47 of the Oklahoma Statutes with respect to all types of personal property, regardless of whether that personal property has a certificate of title.

15 10. For a vehicle abandoned at a salvage pool, if the cost of 16 repairing the vehicle for safe operation on the highway does not 17 exceed sixty percent (60%) of the fair market value of the vehicle 18 as defined in Section 1111 of Title 47 of the Oklahoma Statutes, a 19 salvage title shall not be required.

E. A person who knowingly makes a false statement of a material fact regarding the furnishing of storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof in a proceeding under this section, or attempts to use or uses the provisions of

<sup>1</sup> this section to foreclose an owner or lienholder's interest in a <sup>2</sup> vehicle knowing that any of the statements made in the proceeding <sup>3</sup> are false, upon conviction, shall be guilty of a felony.

F. Upon receipt of notice of legal proceedings, Service
 Oklahoma shall cause the sale process to be put on hold until notice
 of resolution of court proceedings is received from the court. If
 such notice of commencement of court proceedings is not filed with
 Service Oklahoma, the possessory lien sale process may continue.

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

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.

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

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

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

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

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1 Any interested party shall be permitted to visually inspect Κ. 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.

L. This section shall apply to all actions or proceedings that
 commence on or after August 22, 2014.

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1	SECTION 2.	This act	shall become	effective November	r 1, 2025.	
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