

## **BILL ANALYSIS**

C.S.H.B. 1631  
By: Harless  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Property Code provides requirements for possessory liens and for the sale of certain motor vehicles on which such a lien is recorded. Under current law, a worker's possessory lien (mechanic's lien) is superior to the lien of a dealer, who has true ownership of the property. Current law does not require a mechanic to file a work order nor does it require the mechanic to divulge certain information, including the physical location of the property. There have been a number of instances where fraudulent liens are filed, dealers are not notified of the liens, and the property is sold as a way of transferring title. In some cases, no work has been performed on the property and it is sold for a profit.

C.S.H.B. 1631 requires certain holders of a worker's possessory lien to include certain information in the notice to a lienholder of record and to file a signed copy of the work order authorizing the repairs on the motor vehicle. The bill provides that a person who knowingly provides false or misleading information within the required notice commits a Class B misdemeanor.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1631 amends the Property Code to require a holder of a worker's possessory lien on a motor vehicle, other than a person licensed as a franchised motor vehicle dealer, who is required to give notice to a lienholder of record when retaining possession of a motor vehicle for unpaid repairs to include in the notice: the physical address of the real property at which the repairs were made; the legal name of the person holding the possessory lien; the taxpayer identification number or employer identification number, as applicable, of the holder of the possessory lien; and a signed copy of the work order authorizing the repairs. The bill specifies that if the holder of such a possessory lien required to give notice does not comply with these provisions, a lien recorded on the certificate of title of the motor vehicle is superior to the possessory lienholder's lien. The bill makes it a Class B misdemeanor to knowingly provide false or misleading information in such a notice. The bill requires a holder of a worker's possessory lien on a motor vehicle, other than a person licensed as a franchised motor vehicle dealer, after providing the required notice, to make commercially reasonable efforts to allow an owner and each lienholder of record to inspect or arrange an inspection of the motor vehicle by a qualified professional to verify that the repairs were made.

### **EFFECTIVE DATE**

September 1, 2009.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1631 differs from the original by removing language present in the original that applies its provisions to unpaid repairs on motorboats, vessels, or outboard motors.

C.S.H.B. 1631 removes language from the original that includes the social security number of the person that holds the possessory lien in the information that must be provided in a notice to a lienholder of record when retaining possession of a motor vehicle for unpaid repairs.

C.S.H.B. 1631 differs from the original by exempting a person licensed as a franchised dealer under the Occupations Code from the bill's notice to lienholder of record requirements.