

By: Carona

S.B. No. 543

A BILL TO BE ENTITLED

AN ACT

relating to certain possessory liens.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 70.003, Property Code, is amended to read as follows:

(c) A garageman with whom a motor vehicle, motorboat, vessel, or outboard motor is left for care has a lien on the motor vehicle, motorboat, vessel, or outboard motor for the amount of the charges for the care, including reasonable charges for towing the motor vehicle, motorboat, vessel, or outboard motor to the garageman's place of business and excluding charges for repairs.

SECTION 2. Section 70.006, Property Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) Except as provided by Section 70.0061, a [A] holder of a lien under this subchapter or Chapter 59 on a motor vehicle subject to Chapter 501, Transportation Code, or on a motorboat, vessel, or outboard motor for which a certificate of title is required under Subchapter B, Chapter 31, Parks and Wildlife Code, as amended, who retains possession of the motor vehicle, motorboat, vessel, or outboard motor for 30 days after the day that the charges accrue shall give written notice to the owner and each holder of a lien recorded on the certificate of title. Except as provided by Section 70.0061, if [~~I~~] the motor vehicle, motorboat, vessel, or outboard

1 motor is registered outside this state, the holder of a lien under  
2 this subchapter who retains possession during that period shall  
3 give notice to the last known registered owner and each lienholder  
4 of record.

5 (b-1) A holder of a possessory lien under Section 70.001 who  
6 is required to give notice to the owner or a lienholder of record  
7 under this section must include in the notice a signed copy of the  
8 work order authorizing the repairs on the motor vehicle, motorboat,  
9 vessel, or outboard motor.

10 SECTION 3. Subchapter A, Chapter 70, Property Code, is  
11 amended by adding Sections 70.0061 and 70.0062 to read as follows:

12 Sec. 70.0061. SALE OF MOTOR VEHICLE BY CERTAIN LIENHOLDERS.

13 (a) In this section, "franchised dealer" has the meaning assigned  
14 by Section 2301.002, Occupations Code.

15 (b) A person, other than a franchised dealer, who holds a  
16 worker's lien under Section 70.001 on a motor vehicle subject to  
17 Chapter 501, Transportation Code, who retains possession of the  
18 motor vehicle for 20 days after the day that the charges accrue  
19 shall:

20 (1) give written notice of the worker's lien,  
21 including the amount of the charges and a signed copy of the work  
22 order authorizing the repairs on the motor vehicle, to the county  
23 assessor-collector of the county in which the motor vehicle is  
24 located; and

25 (2) pay to the county assessor-collector a fee of \$50  
26 for the administrative costs incurred by the county  
27 assessor-collector under this section.

1       (c) Not later than the 20th day after the date on which the  
2 county assessor-collector receives notice of a worker's lien under  
3 this section, the county assessor-collector shall notify the owner  
4 of the motor vehicle, each holder of a lien recorded on the  
5 certificate of title of the motor vehicle, and the person who claims  
6 the worker's lien of the worker's lien claimed on the motor vehicle  
7 and the amount of the charges. A notice provided by a county  
8 assessor-collector under this subsection must:

9           (1) include a copy of the signed copy of the work order  
10 provided by the lien claimant under Subsection (b)(1) in the notice  
11 to the motor vehicle's owner and each lienholder of record; and

12           (2) be sent by certified mail, return receipt  
13 requested.

14       (d) If the county assessor-collector is unable to locate the  
15 last known registered owner or any lienholder of record, the notice  
16 required by Subsection (c) may be given by publishing the notice  
17 once in a newspaper of general circulation in the county in which  
18 the motor vehicle is located.

19       (e) A county assessor-collector is not required to publish  
20 notice under Subsection (d) if a correctly addressed notice is sent  
21 under Subsection (c) with sufficient postage and is returned as  
22 unclaimed or refused or with a notation that the addressee is  
23 unknown or has moved without leaving a forwarding address.

24       (f) After notice is given to an owner or lienholder of  
25 record under this section, the owner or lienholder may obtain  
26 possession of the motor vehicle by paying all charges due to the  
27 person claiming the worker's lien under Section 70.001 before the

1 21st day after the date the notice is mailed or published by the  
2 county assessor-collector as provided by this section.

3 (g) If the charges are not paid before the 21st day after the  
4 date the notice is mailed or published by the county  
5 assessor-collector and an objection to the worker's lien has not  
6 been filed during that period under Section 70.0062, the person  
7 claiming the worker's lien under Section 70.001 may sell the motor  
8 vehicle in the manner provided by Section 70.006.

9 (h) If an objection to the worker's lien has been filed  
10 under Section 70.0062, the person claiming the worker's lien under  
11 Section 70.001 may sell the motor vehicle in the manner provided by  
12 Section 70.006, only on or after:

13 (1) the 21st day after the date the objection was  
14 filed, if no court case has been filed by any interested party  
15 regarding the validity of the worker's lien; or

16 (2) the date a judgment is issued in which the worker's  
17 lien claimed is found to be valid.

18 Sec. 70.0062. OBJECTION TO WORKER'S LIEN ON MOTOR VEHICLE.

19 (a) An owner or holder of a lien recorded on the certificate of  
20 title of a motor vehicle who is notified under Section 70.0061 of a  
21 worker's lien claimed on the motor vehicle may file an objection  
22 with the county assessor-collector in the county in which the motor  
23 vehicle is located asserting that the worker's lien claimed is  
24 invalid. The objection must be filed in writing not later than the  
25 20th day after the date the notice is provided and must state the  
26 reason the owner or lienholder believes the worker's lien is  
27 invalid.

1       (b) The county assessor-collector may charge a reasonable  
2 fee, not to exceed \$25, for the administrative costs of processing  
3 the objection.

4       (c) On receipt of an objection from an owner or lienholder  
5 under this section, the county assessor-collector shall notify the  
6 Texas Department of Transportation of the objection, and the Texas  
7 Department of Transportation shall place a hold on the motor  
8 vehicle record relating to the certificate of title for the motor  
9 vehicle on which the worker's lien is held.

10       (d) The Texas Department of Transportation shall continue a  
11 hold under this section until the 20th day after the date on which  
12 the county assessor-collector received the objection, unless an  
13 owner or lienholder of record provides written notice to the county  
14 assessor-collector and the department, before that date, of a  
15 pending case regarding the validity of the worker's lien claimed  
16 under Section 70.001, including the name of the court and the docket  
17 number of the case. If the department receives notice of a pending  
18 case under this section, the department may not release the hold on  
19 the motor vehicle record relating to the certificate of title until  
20 the date on which the owner, lienholder of record, or person  
21 claiming a worker's lien under Section 70.001 provides a copy of a  
22 judgment issued in the case to the department.

23       (e) The Texas Transportation Commission shall adopt rules  
24 necessary to carry out the Texas Department of Transportation's  
25 duties under this section.

26       SECTION 4. Section 501.074, Transportation Code, is amended  
27 by amending Subsection (c) and adding Subsection (c-1) to read as

1 follows:

2 (c) If a constitutional or statutory lien is foreclosed, the  
3 department may issue a new certificate of title in the name of the  
4 purchaser at the foreclosure sale on receiving:

5 (1) the affidavit of the lienholder of the fact of the  
6 creation of the lien and of the divestiture of title according to  
7 law; and

8 (2) proof of notice as required by Sections 70.004,  
9 ~~and~~ 70.006, and 70.0061, Property Code.

10 (c-1) Notwithstanding Subsection (c), if Sections 70.0061  
11 and 70.0062, Property Code, apply to the lien, the department may  
12 not issue a new certificate of title unless:

13 (1) the time for filing an objection under Section  
14 70.0062 has expired and an objection is not filed; or

15 (2) if an objection is filed, the time for a hold on  
16 the title under Section 70.0062 has expired in accordance with that  
17 section.

18 SECTION 5. The changes in law made by this Act apply only to  
19 a possessory lien on a motor vehicle, motorboat, vessel, or  
20 outboard motor the possession of which is obtained on or after the  
21 effective date of this Act. A possessory lien on a motor vehicle,  
22 motorboat, vessel, or outboard motor the possession of which was  
23 obtained before that date is governed by the law in effect at the  
24 time possession was obtained, and the former law is continued in  
25 effect for that purpose.

26 SECTION 6. This Act takes effect September 1, 2009.