

1-1 By: Carona S.B. No. 543
1-2 (In the Senate - Filed January 26, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; March 20, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9,
1-6 Nays 0; March 20, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 543 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain possessory liens.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsection (c), Section 70.003, Property Code,
1-13 is amended to read as follows:

1-14 (c) A garageman with whom a motor vehicle, motorboat,
1-15 vessel, or outboard motor is left for care has a lien on the motor
1-16 vehicle, motorboat, vessel, or outboard motor for the amount of the
1-17 charges for the care, including reasonable charges for towing the
1-18 motor vehicle, motorboat, vessel, or outboard motor to the
1-19 garageman's place of business and excluding charges for repairs.

1-20 SECTION 2. Section 70.006, Property Code, is amended by
1-21 amending Subsection (a) and adding Subsection (b-1) to read as
1-22 follows:

1-23 (a) Except as provided by Section 70.0061, a [A] holder of a
1-24 lien under this subchapter or Chapter 59 on a motor vehicle subject
1-25 to Chapter 501, Transportation Code, or on a motorboat, vessel, or
1-26 outboard motor for which a certificate of title is required under
1-27 Subchapter B, Chapter 31, Parks and Wildlife Code, as amended, who
1-28 retains possession of the motor vehicle, motorboat, vessel, or
1-29 outboard motor for 30 days after the day that the charges accrue
1-30 shall give written notice to the owner and each holder of a lien
1-31 recorded on the certificate of title. Except as provided by Section
1-32 70.0061, if [~~I~~] the motor vehicle, motorboat, vessel, or outboard
1-33 motor is registered outside this state, the holder of a lien under
1-34 this subchapter who retains possession during that period shall
1-35 give notice to the last known registered owner and each lienholder
1-36 of record.

1-37 (b-1) A holder of a possessory lien under Section 70.001 who
1-38 is required to give notice to the owner or a lienholder of record
1-39 under this section must include in the notice a signed copy of the
1-40 work order authorizing the repairs on the motor vehicle, motorboat,
1-41 vessel, or outboard motor.

1-42 SECTION 3. Subchapter A, Chapter 70, Property Code, is
1-43 amended by adding Sections 70.0061 and 70.0062 to read as follows:

1-44 Sec. 70.0061. SALE OF MOTOR VEHICLE BY CERTAIN LIENHOLDERS.

1-45 (a) In this section, "franchised dealer" has the meaning assigned
1-46 by Section 2301.002, Occupations Code.

1-47 (b) A person, other than a franchised dealer, who holds a
1-48 worker's lien under Section 70.001 on a motor vehicle subject to
1-49 Chapter 501, Transportation Code, who retains possession of the
1-50 motor vehicle for 20 days after the day that the charges accrue
1-51 shall:

1-52 (1) give written notice of the worker's lien,
1-53 including the amount of the charges and a signed copy of the work
1-54 order authorizing the repairs on the motor vehicle, to the county
1-55 assessor-collector of the county in which the motor vehicle is
1-56 located; and

1-57 (2) pay to the county assessor-collector a fee of \$50
1-58 for the administrative costs incurred by the county
1-59 assessor-collector under this section.

1-60 (c) Not later than the 20th day after the date on which the
1-61 county assessor-collector receives notice of a worker's lien under
1-62 this section, the county assessor-collector shall notify the owner
1-63 of the motor vehicle, each holder of a lien recorded on the

2-1 certificate of title of the motor vehicle, and the person who claims
 2-2 the worker's lien of the worker's lien claimed on the motor vehicle
 2-3 and the amount of the charges. A notice provided by a county
 2-4 assessor-collector under this subsection must:

2-5 (1) include a copy of the signed copy of the work order
 2-6 provided by the lien claimant under Subsection (b)(1) in the notice
 2-7 to the motor vehicle's owner and each lienholder of record; and
 2-8 (2) be sent by certified mail, return receipt
 2-9 requested.

2-10 (d) If the county assessor-collector is unable to locate the
 2-11 last known registered owner or any lienholder of record, the notice
 2-12 required by Subsection (c) may be given by publishing the notice
 2-13 once in a newspaper of general circulation in the county in which
 2-14 the motor vehicle is located.

2-15 (e) A county assessor-collector is not required to publish
 2-16 notice under Subsection (d) if a correctly addressed notice is sent
 2-17 under Subsection (c) with sufficient postage and is returned as
 2-18 unclaimed or refused or with a notation that the addressee is
 2-19 unknown or has moved without leaving a forwarding address.

2-20 (f) After notice is given to an owner or lienholder of
 2-21 record under this section, the owner or lienholder may obtain
 2-22 possession of the motor vehicle by paying all charges due to the
 2-23 person claiming the worker's lien under Section 70.001 before the
 2-24 21st day after the date the notice is mailed or published by the
 2-25 county assessor-collector as provided by this section.

2-26 (g) If the charges are not paid before the 21st day after the
 2-27 date the notice is mailed or published by the county
 2-28 assessor-collector and an objection to the worker's lien has not
 2-29 been filed during that period under Section 70.0062, the person
 2-30 claiming the worker's lien under Section 70.001 may sell the motor
 2-31 vehicle in the manner provided by Section 70.006.

2-32 (h) If an objection to the worker's lien has been filed
 2-33 under Section 70.0062, the person claiming the worker's lien under
 2-34 Section 70.001 may sell the motor vehicle in the manner provided by
 2-35 Section 70.006, only on or after:

2-36 (1) the 21st day after the date the objection was
 2-37 filed, if no court case has been filed by any interested party
 2-38 regarding the validity of the worker's lien; or

2-39 (2) the date a judgment is issued in which the worker's
 2-40 lien claimed is found to be valid.

2-41 Sec. 70.0062. OBJECTION TO WORKER'S LIEN ON MOTOR VEHICLE.

2-42 (a) An owner or holder of a lien recorded on the certificate of
 2-43 title of a motor vehicle who is notified under Section 70.0061 of a
 2-44 worker's lien claimed on the motor vehicle may file an objection
 2-45 with the county assessor-collector in the county in which the motor
 2-46 vehicle is located asserting that the worker's lien claimed is
 2-47 invalid. The objection must be filed in writing not later than the
 2-48 20th day after the date the notice is provided and must state the
 2-49 reason the owner or lienholder believes the worker's lien is
 2-50 invalid.

2-51 (b) The county assessor-collector may charge a reasonable
 2-52 fee, not to exceed \$25, for the administrative costs of processing
 2-53 the objection.

2-54 (c) On receipt of an objection from an owner or lienholder
 2-55 under this section, the county assessor-collector shall notify the
 2-56 Texas Department of Transportation of the objection, and the Texas
 2-57 Department of Transportation shall place a hold on the motor
 2-58 vehicle record relating to the certificate of title for the motor
 2-59 vehicle on which the worker's lien is held.

2-60 (d) The Texas Department of Transportation shall continue a
 2-61 hold under this section until the 20th day after the date on which
 2-62 the county assessor-collector received the objection, unless an
 2-63 owner or lienholder of record provides written notice to the county
 2-64 assessor-collector and the department, before that date, of a
 2-65 pending case regarding the validity of the worker's lien claimed
 2-66 under Section 70.001, including the name of the court and the docket
 2-67 number of the case. If the department receives notice of a pending
 2-68 case under this section, the department may not release the hold on
 2-69 the motor vehicle record relating to the certificate of title until

3-1 the date on which the owner, lienholder of record, or person
3-2 claiming a worker's lien under Section 70.001 provides a copy of a
3-3 judgment issued in the case to the department.

3-4 (e) The Texas Transportation Commission shall adopt rules
3-5 necessary to carry out the Texas Department of Transportation's
3-6 duties under this section.

3-7 SECTION 4. Section 501.074, Transportation Code, is amended
3-8 by amending Subsection (c) and adding Subsection (c-1) to read as
3-9 follows:

3-10 (c) If a constitutional or statutory lien is foreclosed, the
3-11 department may issue a new certificate of title in the name of the
3-12 purchaser at the foreclosure sale on receiving:

3-13 (1) the affidavit of the lienholder of the fact of the
3-14 creation of the lien and of the divestiture of title according to
3-15 law; and

3-16 (2) proof of notice as required by Sections 70.004,
3-17 [~~and~~] 70.006, and 70.0061, Property Code.

3-18 (c-1) Notwithstanding Subsection (c), if Sections 70.0061
3-19 and 70.0062, Property Code, apply to the lien, the department may
3-20 not issue a new certificate of title unless:

3-21 (1) the time for filing an objection under Section
3-22 70.0062 has expired and an objection is not filed; or

3-23 (2) if an objection is filed, the time for a hold on
3-24 the title under Section 70.0062 has expired in accordance with that
3-25 section.

3-26 SECTION 5. The changes in law made by this Act apply only to
3-27 a possessory lien on a motor vehicle, motorboat, vessel, or
3-28 outboard motor the possession of which is obtained on or after the
3-29 effective date of this Act. A possessory lien on a motor vehicle,
3-30 motorboat, vessel, or outboard motor the possession of which was
3-31 obtained before that date is governed by the law in effect at the
3-32 time possession was obtained, and the former law is continued in
3-33 effect for that purpose.

3-34 SECTION 6. This Act takes effect September 1, 2009.

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