

By: Pitts

H.B. No. 3071

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a worker's lien on a vehicle, motorboat, vessel, or
3 outboard motor; providing a penalty.

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

5 SECTION 1. Section 70.001, Property Code, is amended by
6 amending Subsections (b), (c), (d), (e), and (f) and adding
7 Subsection (d-1) to read as follows:

8 (b) If the lienholder [~~a worker~~] relinquishes possession of
9 a motor vehicle, motorboat, vessel, or outboard motor in return for
10 a purported payment or a promise to pay by the person obligated
11 under the repair contract [~~check, money order, or a credit card~~
12 ~~transaction on which payment is stopped, has been dishonored~~
13 ~~because of insufficient funds, no funds or because the drawer or~~
14 ~~maker of the order or the credit card holder has no account or the~~
15 ~~account upon which it was drawn or the credit card account has been~~
16 ~~closed~~], the lien provided by this section continues to exist and
17 the lienholder [~~worker~~] is entitled to possession of the vehicle,
18 motorboat, vessel, or outboard motor until the amount due is paid,
19 unless the vehicle, motorboat, vessel, or outboard motor is
20 possessed by a person who became a bona fide purchaser of the
21 vehicle before full payment [~~after a stop payment order~~] was made.
22 A person entitled to possession of property under this subsection
23 is entitled to take possession thereof in accordance with the
24 provisions of Section 9.609, Business & Commerce Code.

1 (c) A lienholder [~~worker~~] may take possession of an article
2 under Subsection (b) only if the person obligated under the repair
3 contract has signed a notice stating that the article may be subject
4 to repossession under this section. A notice under this subsection
5 must be:

- 6 (1) separate from the written repair contract; or
7 (2) printed on the written repair contract, credit
8 agreement, or other document in type that is boldfaced,
9 capitalized, underlined, or otherwise set out from surrounding
10 written material so as to be conspicuous with a separate signature
11 line.

12 (d) A lienholder [~~worker~~] who takes possession of an article
13 under Subsection (b) may require a person obligated under the
14 repair contract to pay, as a condition of reclaiming the article,
15 the lesser of:

16 (1) the actual costs reasonably incurred by the
17 lienholder in taking possession of the article; or

18 (2) [~~the costs of repossession as a condition of~~
19 ~~reclaiming the article only to the extent of~~] the reasonable fair
20 market value of the services required to take possession of the
21 article.

22 (d-1) Charges imposed by a lienholder under Subsection (d)
23 are rebuttably presumed to [~~For the purpose of this subsection,~~
24 ~~charges~~] represent the fair market value of the services required
25 to take possession of an article if the charges represent the actual
26 cost incurred by the lienholder [~~worker~~] in taking possession of
27 the article, except the presumption does not apply to a charge

1 imposed by a lienholder that has received or is entitled to receive
2 a profit from the provision of services required to take possession
3 of an article.

4 (e) A lienholder [~~worker~~] may not assign the lien to a
5 person who performs repossession services [~~transfer to a third~~
6 ~~party~~], and a person who performs repossession services may not
7 accept assignment of a lien under this section. This subsection may
8 not be construed to prevent a lienholder under this section from
9 assigning a lien to a third party that does not perform repossession
10 services [~~, a check, money order, or credit card transaction that is~~
11 ~~received as payment for repair of an article and that is returned to~~
12 ~~the worker because of insufficient funds or no funds, because the~~
13 ~~drawer or maker of the check or money order or the credit card~~
14 ~~holder has no account, or because the account on which the check or~~
15 ~~money order is drawn or the credit card account has been closed]~~.

16 (f) A person commits an offense if the person assigns
17 [~~transfers~~] or accepts assignment of a lien [~~a check, money order,~~
18 ~~or credit card transaction~~] in violation of Subsection (e). An
19 offense under this subsection is a Class B misdemeanor.

20 SECTION 2. (a) Except as provided by Subsection (b) of this
21 section, the change in law made by this Act applies only to a lien
22 created under a contract for repairs entered into on or after the
23 effective date of this Act. A lien created under a contract for
24 repairs entered into before the effective date of this Act is
25 governed by the law in effect when the contract was entered into,
26 and that law is continued in effect for that purpose.

27 (b) Section 70.001(f), Property Code, as amended by this

1 Act, applies only to an offense committed on or after the effective
2 date of this Act. An offense committed before the effective date of
3 this Act is covered by the law in effect when the offense was
4 committed, and the former law is continued in effect for that
5 purpose. For purposes of this section, an offense was committed
6 before the effective date of this Act if any element of the offense
7 occurred before that date.

8 SECTION 3. This Act takes effect September 1, 2013.