

BILL ANALYSIS

C.S.H.B. 2076
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concerns regarding confusion surrounding the timeline for certain lienholders on a motor vehicle, motorboat, vessel, or outboard motor to give notice that the lienholder intends to collect on the lien. C.S.H.B. 2076 seeks to amend the applicable law to address this issue and provide a more effective and secure notification process.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2076 amends the Property Code to change from before the 31st day after the date the notice of a possessory lien on a motor vehicle, motorboat, vessel, or outboard motor is mailed or published to before the 31st day after the date a copy of the notice is filed with the county tax assessor-collector's office the date by which the owner of or holder of the lien may obtain possession of the motor vehicle, motorboat, vessel, or outboard motor by paying all charges due to the possessory lienholder. The bill clarifies that, if the charges are not paid before the applicable deadline, an authorized public sale of a motor vehicle, motorboat, vessel, or outboard motor by the possessory lienholder may not take place before the 31st day after the date a copy of the required notice of the possessory lien is filed with the county tax assessor-collector's office.

C.S.H.B. 2076 removes the requirement for the holder of a possessory lien on a motor vehicle, other than a licensed franchised dealer, to make commercially reasonable efforts within a specified timeline 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 and instead requires the possessory lienholder, other than a licensed franchise dealer, unconditionally to allow such inspection. The bill requires the inspection to be completed before the date of the authorized public sale. The bill requires the copy of the notice of a possessory lien the county tax assessor-collector is required to provide to the owner of a motor vehicle and each holder of a lien recorded on the certificate of title of the motor vehicle to indicate the date the notice was filed with the assessor-collector.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2076 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 70.006(e), (f), and (h), Property Code, are amended to read as follows:

(e) After notice is given under this section to the owner of or the holder of a lien on the motor vehicle, motorboat, vessel, or outboard motor, the owner or holder of the lien may obtain possession of the motor vehicle, motorboat, vessel, or outboard motor by paying all charges due to the holder of a lien under this subchapter before the 31st day after the date a copy of the notice is filed with the county tax assessor-collector's office [~~the notice is mailed or published as provided by this section~~].

(f) If the charges are not paid before the 31st day after the date that a copy of the notice is filed with the county tax assessor-collector's office [~~day that the notice is mailed or published, as applicable~~], the lienholder may sell the motor vehicle, motorboat, vessel, or outboard motor at a public sale and apply the proceeds to the charges. The lienholder shall pay excess proceeds to the person entitled to them. The public sale may not take place before the 31st day after the date a copy of the notice required by Subsection (a) is filed with the county tax assessor-collector's office.

(h) Not later than the 15th business day after the date the county tax assessor-

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 70.006(e), (f), (g), and (h), Property Code, are amended to read as follows:

(e) After notice is given under this section to the owner of or the holder of a lien on the motor vehicle, motorboat, vessel, or outboard motor, the owner or holder of the lien may obtain possession of the motor vehicle, motorboat, vessel, or outboard motor by paying all charges due to the holder of a lien under this subchapter before the 31st day after the date a copy of the notice is filed with the county tax assessor-collector's office [~~the notice is mailed or published as provided by this section~~].

(f) If the charges are not paid before the 31st day after the date that a copy of the notice required by Subsection (a) is filed with the county tax assessor-collector's office [~~day that the notice is mailed or published, as applicable~~], the lienholder may sell the motor vehicle, motorboat, vessel, or outboard motor at a public sale and apply the proceeds to the charges. The lienholder shall pay excess proceeds to the person entitled to them. The public sale may not take place before the 31st day after the date a copy of the notice is filed with the county tax assessor-collector's office.

(g) After providing notice in accordance with this section, a holder of a possessory lien on a motor vehicle under Section 70.001, other than a person licensed as a franchised dealer under Chapter 2301, Occupations Code, shall, on request, [~~not later than the 30th day after the date on which the charges accrue, 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. The inspection must be completed before the date of the public sale authorized by Subsection (f).

(h) Not later than the 15th business day after the date the county tax assessor-

collector receives notice under this section, the county tax assessor-collector shall provide a copy of the notice that indicates the date the notice was filed with the county tax assessor-collector to the owner of the motor vehicle and each holder of a lien recorded on the certificate of title of the motor vehicle. Except as provided by this subsection, the county tax assessor-collector shall provide the notice required by this section in the same manner as a holder of a lien is required to provide a notice under this section, except that the county tax assessor-collector is not required to use certified mail. Notice under this section is required regardless of the date on which the charges on which the possessory lien is based accrued.

SECTION 2. Section 70.006, Property Code, as amended by this Act, applies only

to the sale of a motor vehicle, motorboat, vessel, or outboard motor on or after the effective date of this Act. The sale of a motor vehicle, motorboat, vessel, or outboard motor before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

collector receives notice under this section, the county tax assessor-collector shall provide a copy of the notice that indicates the date the notice was filed with the county tax assessor-collector to the owner of the motor vehicle and each holder of a lien recorded on the certificate of title of the motor vehicle. Except as provided by this subsection, the county tax assessor-collector shall provide the notice required by this section in the same manner as a holder of a lien is required to provide a notice under this section, except that the county tax assessor-collector is not required to use certified mail. Notice under this section is required regardless of the date on which the charges on which the possessory lien is based accrued.

SECTION 2. (a) Sections 70.006(e), (f), and (h), Property Code, as amended by this Act, apply only to a notice required under Section 70.006(a), Property Code, provided on or after the effective date of this Act. A notice provided before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 70.006(g), Property Code, as amended by this Act, applies only to a sale of a motor vehicle, motorboat, vessel, or outboard motor for which the notice required under Section 70.006(a), Property Code, is provided on or after the effective date of this Act. A sale for which the notice required under Section 70.006(a), Property Code, is provided before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. Same as introduced version.