

OKLAHOMA STATUTES
TITLE 42. LIENS

| | |
|---|----|
| §42-1. Lien defined. | 3 |
| §42-2. Classes of liens. | 4 |
| §42-3. General lien. | 4 |
| §42-4. Special lien - Prior lien. | 4 |
| §42-5. Law applies to what. | 4 |
| §42-6. Lien created, how. | 4 |
| §42-7. Lien created by law. | 4 |
| §42-8. Lien on future interest. | 4 |
| §42-9. Lien to take immediate effect. | 5 |
| §42-10. Lien transfers no title. | 5 |
| §42-11. Contracts for forfeiture of property and restraining redemption. | 5 |
| §42-12. Lien does not imply obligation. | 5 |
| §42-13. Extent of lien limited. | 5 |
| §42-14. Holder of lien not entitled to compensation. | 5 |
| §42-15. Priority of liens according to date. | 5 |
| §42-16. Priority of mortgage for price of realty. | 5 |
| §42-17. Order of resort for payment of prior liens. | 6 |
| §42-18. Persons entitled to redeem lien - Federal right of first refusal - Rule of construction. | 6 |
| §42-19. Holder of inferior lien - Redemption. | 6 |
| §42-20. Redemption - How made. | 7 |
| §42-21. Lien is an accessory obligation. | 7 |
| §42-22. Sale or conversion of property extinguishes lien. | 7 |
| §42-23. Limitation of time. | 7 |
| §42-24. Partial performance as extinguishing lien. | 7 |
| §42-25. Voluntary restoration as extinguishing lien. | 7 |
| §42-26. Vendor's lien for price of realty. | 8 |
| §42-27. Waiver of vendor's lien. | 8 |
| §42-28. Validity of liens of vendors and purchasers. | 8 |
| §42-29. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102). | 8 |
| §42-30. Lien of purchaser of real property. | 8 |
| §42-31. Lien of factor. | 8 |
| §42-32. Banker's lien. | 8 |
| §42-33. Special lien of officer levying attachment or execution. | 9 |
| §42-34. Other liens. | 9 |
| §42-35. Judgment liens. | 9 |
| §42-36. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102). | 9 |
| §42-37. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102). | 9 |
| §42-38. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102). | 9 |
| §42-39. Keeper of inn, hotel, boardinghouse, or rooming house - Lien on baggage and other property - Limitation - Enforcement. | 9 |
| §42-40. Repealed by Laws 1986, c. 292, § 160, eff. Nov. 1, 1986. | 10 |
| §42-41. Repealed by Laws 1986, c. 292, § 160, eff. Nov. 1, 1986. | 10 |
| §42-42. Repealed by Laws 1983, c. 72, § 1, emerg. eff. April 29, 1983. | 10 |
| §42-43. Hospital liens in personal injury cases - Priority - Exception. | 10 |
| §42-44. Filing of notice of lien - Enforcement by civil action. | 11 |
| §42-45. Insurance agent's lien. | 12 |
| §42-46. Physician's lien. | 12 |
| §42-47. Provider of seed, chemicals, pesticides, herbicides or fertilizer - Agricultural lien. | 14 |
| §42-48. Provider of seed, chemicals, pesticides, herbicides or fertilizer - General agriculture commodities lien. | 14 |
| §42-49. Ambulance service provider liens. | 14 |
| §42-90. Notice preparers to register and submit annual fee. | 15 |

| | |
|--|----|
| §42-91. Lien on certain personal property for service thereon - Foreclosure - Notice - Purchaser - Unpaid checks – Repossession..... | 16 |
| §42-91.1. Abandoned vehicle auctions – Exemption from fees and taxes..... | 24 |
| §42-91.2. Liens on farm equipment..... | 24 |
| §42-91A. Lien on certain personal property for service thereon - Certificate of title - Foreclosure - Notice - Purchaser - Unpaid checks – Repossession..... | 26 |
| §42-91v1. Lien on certain personal property for service thereon - Foreclosure - Notice - Purchaser - Unpaid checks – Repossession..... | 37 |
| §42-92. Laborer's lien on products of labor..... | 46 |
| §42-93. Enforcement of lien..... | 46 |
| §42-94. When lien attaches..... | 46 |
| §42-95. Time for enforcement..... | 46 |
| §42-96. Priority of lien..... | 46 |
| §42-97. Lien for labor or materials for production, alteration or repair of personal property - Commencement of lien..... | 46 |
| §42-98. Filing of statement of lien with county clerk - Innocent purchasers..... | 47 |
| §42-99. Priority of mortgage liens..... | 47 |
| §42-100. Foreclosure of liens..... | 47 |
| §42-101. Sale, disposal or removal of property covered by lien - Punishment..... | 48 |
| §42-102. Discharge of lien when satisfied..... | 48 |
| §42-104. Enforcement and foreclosure of liens on farm equipment..... | 48 |
| §42-111. Persons entitled to liens - Commencement of lien..... | 48 |
| §42-112. Filing statement of lien in office of county clerk - Right to lien as against purchaser..... | 49 |
| §42-113. Priority of mortgage liens - Liability of mortgagee consenting in writing..... | 49 |
| §42-114. Statement furnished owner by thresher - Forfeiture on failure to comply..... | 49 |
| §42-115. Enforcement of lien..... | 50 |
| §42-116. Sale for purpose of paying threshing or combining bill..... | 50 |
| §42-117. Selling in violation of lien..... | 50 |
| §42-118. Satisfaction of lien - Discharge - Record - Duty of holders..... | 50 |
| §42-119. Right to lien - Persons liable for threshing bills - Enforcement of lien by attachment - Persons against whom valid..... | 50 |
| §42-120. Statement to be furnished owner or person in charge - False statements as to law..... | 51 |
| §42-121. Removal of grain or seed with fraudulent intent - Fraudulent appropriation..... | 51 |
| §42-131. Lien provided for work..... | 51 |
| §42-132. Procedure to perfect lien..... | 52 |
| §42-141. Right to lien - Priority - Enforceability against property - Constructive notice..... | 52 |
| §42-141.1. Transfer of records, funds, and powers and duties to county clerk..... | 53 |
| §42-142. Statement to be filed..... | 53 |
| §42-142.1. Repealed by Laws 2011, c. 23, § 2, eff. Nov. 1, 2011..... | 54 |
| §42-142.2. Repealed by Laws 2005, c. 477, § 3, eff. Nov. 1, 2005..... | 54 |
| §42-142.3. Repealed by Laws 2011, c. 23, § 2, eff. Nov. 1, 2011..... | 54 |
| §42-142.4. Fraudulent statement - Felony..... | 54 |
| §42-142.5. Repealed by Laws 2011, c. 23, § 2, eff. Nov. 1, 2011..... | 54 |
| §42-142.6. Pre-lien notice - Requirements – Affidavit - Penalties..... | 54 |
| §42-143. Lien by or through subcontractor..... | 56 |
| §42-143.1. Notice - Filing of lien statement - Fees..... | 57 |
| §42-143.2. Repealed by Laws 2005, c. 31, § 1, eff. Nov. 1, 2005..... | 58 |
| §42-143.3. Leased or rented equipment - Exemption from act..... | 58 |
| §42-143.4. Leased or rented equipment - Property used for production of oil or gas..... | 58 |
| §42-144. Oil and gas well liens..... | 58 |
| §42-144.1. Effectiveness of lien against purchaser - Delivery of copy of statement of lien..... | 59 |
| §42-144.2. Trust funds for payment of lienable claims..... | 59 |
| §42-145. Oil and gas well lien by or through subcontractor..... | 60 |

| | |
|--|----|
| §42-146. Enforcement of lien on oil and gas wells. | 60 |
| §42-147. Repealed by Laws 1982, c. 332, § 3. | 61 |
| §42-147.1. Discharge of lien. | 61 |
| §42-148. Lien on mining property for work thereon. | 63 |
| §42-149. Suit within one year. | 64 |
| §42-150. Filing statement. | 64 |
| §42-151. Lightning rods not included herein. | 64 |
| §42-152. Proceeds of building or remodeling contracts, mortgages or warranty deeds as trust funds for payment of lienable claims. | 64 |
| §42-153. Payment of lienable claims. | 65 |
| §42-154. Corporations - Execution, attestation, seal or acknowledgment of lien statement - Release of lien. | 65 |
| §42-161. Right to lien against railroads. | 66 |
| §42-162. Limitations. | 66 |
| §42-163. How enforced. | 66 |
| §42-164. Notice. | 66 |
| §42-171. Assignment of liens. | 66 |
| §42-172. Enforcement by civil actions - Limitations - Practice, pleading and proceeding - Amendment of lien statement. | 67 |
| §42-173. Parties. | 67 |
| §42-174. Consolidation of actions and stay of trial. | 67 |
| §42-175. Sale of property after judgment. | 68 |
| §42-176. Attorney's fees. | 68 |
| §42-177. Suit by owner to determine lien and cancellation of lien on docket. | 68 |
| §42-178. Proceeds insufficient. | 68 |
| §42-180. Liens against manufactured homes – Repossession - Notice. | 69 |
| §42-191. Short title. | 69 |
| §42-192. Definitions. | 70 |
| §42-193. Applicability of Article 7 of Commercial Code. | 71 |
| §42-194. Duty of care - Disclosure. | 71 |
| §42-195. Default by occupant - Prevention of access - Liability for damage to property. | 71 |
| §42-196. Lien - Date of attachment - Disclosure of other lienholders. | 72 |
| §42-197. Priority - Enforcement - Notice - Sale of property. | 72 |
| §42-197.1. Abandonment or surrender – Possession – Disposal – Notice. | 75 |
| §42-198. Residential use prohibited. | 76 |
| §42-199. Other rights not impaired or affected. | 76 |
| §42-200. Publication of act. | 76 |
| §42-201. Short title. | 76 |
| §42-202. Definitions. | 77 |
| §42-203. Real estate broker lien - Attachment. | 77 |
| §42-204. Notice of lien - Mailing. | 78 |
| §42-205. Suit to enforce lien - Extinguishment of lien. | 79 |
| §42-206. Notice of lien - Contents. | 79 |
| §42-207. Release or satisfaction of lien - Demand for suit to enforce lien - Alternate dispute resolution - Attorneys' fees, costs and interest. | 79 |
| §42-208. Priority of lien. | 80 |
| §42-209. Lien on escrow account. | 80 |
| §42-91Av1. Lien on certain personal property for service thereon - Certificate of title - Foreclosure - Notice - Purchaser - Unpaid checks – Repossession. | 81 |

§42-1. Lien defined.

A lien is a charge imposed upon specific property, by which it is made security for the performance of an act.
R.L. 1910, § 3822.

§42-2. Classes of liens.

Liens are either general or special.
R.L. 1910, § 3823.

§42-3. General lien.

A general lien is one which the holder thereof is entitled to enforce as a security for the performance of all the obligations, or all of a particular class of obligations, which exist in his favor against the owner of the property.
R.L. 1910, § 3824.

§42-4. Special lien - Prior lien.

A special lien is one which the holder thereof can enforce only as a security for the performance of a particular act or obligation, and of such obligations as may be incidental thereto. Where the holder of a special lien is compelled to satisfy a prior lien for his own protection, he may enforce payment of the amount so paid by him, as a part of the claim for which his own lien exists.
R.L. 1910, § 3825.

§42-5. Law applies to what.

Contracts of mortgage and pledge, are subject to all the provisions of this chapter.
R.L. 1910, § 3826.

§42-6. Lien created, how.

A lien is created:

1. By contract of the parties; or,
2. By operation of law.

R.L. 1910, § 3827.

§42-7. Lien created by law.

No lien arises by mere operation of law until the time at which the act to be secured thereby ought to be performed.
R.L. 1910, § 3828.

§42-8. Lien on future interest.

An agreement may be made to create a lien upon property not yet acquired by the party agreeing to give the lien, or not yet in existence. In such case the lien agreed for attaches from the time when the party agreeing to give it acquires an interest in the thing to the extent of such interest.
R.L. 1910, § 3829.

§42-9. Lien to take immediate effect.

A lien may be created by contract, to take immediate effect, as security for the performance of obligations not then in existence.
R.L. 1910, § 3830.

§42-10. Lien transfers no title.

Notwithstanding an agreement to the contrary, a lien or a contract for a lien transfers no title to the property subject to the lien.
R.L. 1910, § 3831.

§42-11. Contracts for forfeiture of property and restraining redemption.

All contracts for the forfeiture of property subject to a lien, in satisfaction of the obligation secured thereby, and all contracts in restraint of the right of redemption from a lien, are void, except in the case specified in Section 1122.
R.L. 1910, § 3832.

§42-12. Lien does not imply obligation.

The creation of a lien does not of itself imply that any person is bound to perform the act for which the lien is a security.
R.L. 1910, § 3833.

§42-13. Extent of lien limited.

The existence of a lien upon property does not of itself entitle the person, in whose favor it exists, to a lien upon the same property for the performance of any other obligation than that which the lien originally secured.
R.L. 1910, § 3834.

§42-14. Holder of lien not entitled to compensation.

One who holds property by virtue of a lien thereon, is not entitled to compensation from the owner thereof for any trouble or expense which he incurs respecting it, except to the same extent as a borrower, under Sections 1018 and 1019.
R.L. 1910, § 3835.

§42-15. Priority of liens according to date.

Other things being equal, different liens upon the same property have priority according to the time of their creation, except in cases of bottomry and respondentia.
R.L. 1910, § 3836.

§42-16. Priority of mortgage for price of realty.

A mortgage given for the price of real property, at the time of its conveyance, has priority over all other liens created against the purchaser, subject to the operation of the recording laws. R.L. 1910, § 3837.

§42-17. Order of resort for payment of prior liens.

Where one has a lien upon several things, and other persons have subordinate liens upon or interests in, some but not all of the same things, the person having the prior lien, if he can do so without the risk of loss to himself, or injustice to other persons, must resort to the property in the following order, on the demand of any party interested:

1. To the things upon which he has an exclusive lien.
2. To the things which are subject to the fewest subordinate liens.
3. In like manner inversely to the number of subordinate liens upon the same thing; and,
4. When several things are within one of the foregoing classes, and subject to the same number of liens, resort must be had,-
 - (a) To the things which have not been transferred since the prior lien was created.
 - (b) To the things which have been so transferred without a valuable consideration; and,
 - (c) To the things which have been so transferred for a valuable consideration.

R.L. 1910, § 3838.

§42-18. Persons entitled to redeem lien - Federal right of first refusal - Rule of construction.

Every person having an interest in property subject to a lien, has a right to redeem it from the lien, at any time after the claim is due, and before his right of redemption is foreclosed.

B. Neither this section nor any existing or future order or regulation of any entity of state government or case law or common law shall be construed as limiting or diminishing any federally guaranteed "right of first refusal" granted by the Agricultural Credit Act of 1987 (P.L. 100-233).

R.L. 1910, § 3839; Laws 1988, c. 100, § 1, emerg. eff. April 1, 1988.

§42-19. Holder of inferior lien - Redemption.

One who has a lien, inferior to another upon the same property, has a right:

1. To redeem the property in the same manner as its owner might, from the superior lien; and,

2. To be subrogated to all the benefits of the superior lien when necessary for the protection of his interests, upon satisfying the claim secured thereby.

R.L. 1910, § 3840.

§42-20. Redemption - How made.

Redemption from a lien is made by performing, or offering to perform, the act for the performance of which it is a security, and paying, or offering to pay, the damages, if any, to which the holder of the lien is entitled for delay.

R.L. 1910, § 3841.

§42-21. Lien is an accessory obligation.

A lien is to be deemed accessory to the act for the performance of which it is a security, whether any person is bound for such performance or not, and is extinguishable in like manner with any other accessory obligation.

R.L. 1910, § 3842.

§42-22. Sale or conversion of property extinguishes lien.

The sale of any property on which there is a lien, in satisfaction of the claim secured thereby, or, in case of personal property, its wrongful conversion by the person holding the lien, extinguishes the lien thereon.

R.L. 1910, § 3843.

§42-23. Limitation of time.

A lien is extinguished by the mere lapse of the time within which, under the provisions of civil procedure, an action can be brought upon the principal obligation.

R.L. 1910, § 3844.

§42-24. Partial performance as extinguishing lien.

The partial performance of an act secured by a lien does not extinguish the lien upon any part of the property subject thereto, even if it is divisible.

R.L. 1910, § 3845.

§42-25. Voluntary restoration as extinguishing lien.

The voluntary restoration of property to its owner, by the holder of a lien thereon, dependent upon possession, extinguishes the lien as to such property, unless otherwise agreed by the parties, and extinguishes it, notwithstanding any such agreement, as to creditors of the owner and persons subsequently acquiring title to the property, or a lien thereon, in good faith and for a good consideration.

R.L. 1910, § 3846.

§42-26. Vendor's lien for price of realty.

One who sells real property has a special or vendor's lien thereon, independent of possession, for so much of the price as remains unpaid and unsecured, otherwise than by the personal obligation of the buyer, subject to the rights of purchasers and encumbrancers, in good faith, without notice.

R.L. 1910, § 3847.

§42-27. Waiver of vendor's lien.

Where the buyer of real property gives to the seller a written contract for payment of all or part of the price, an absolute transfer of such contract by the seller, waives his lien to the extent of the sum payable under the contract, but a transfer of such contract in trust to pay debts, and return the surplus, is not a waiver of the lien.

R.L. 1910, § 3848.

§42-28. Validity of liens of vendors and purchasers.

The liens defined in Sections 3847 and 3851 are valid against everyone claiming under the debtor, except a purchaser or encumbrancer in good faith, and for value.

R.L. 1910, § 3849.

§42-29. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102).

§42-30. Lien of purchaser of real property.

One who pays to the owner any part of the price of real property, under an agreement for the sale thereof, has a special lien upon the property, independent of possession, for such part of the amount paid as he may be entitled to recover back in case of a failure of consideration.

R.L. 1910, § 3851.

§42-31. Lien of factor.

A factor has a general lien, dependent on possession, for all that is due to him as such, upon all articles of commercial value that are entrusted to him by the same principal.

R.L. 1910, § 3853.

§42-32. Banker's lien.

A banker has a general lien, dependent on possession, upon all property in his hands belonging to a customer, for the balance due to him from such customer in the course of the business.

R.L. 1910, § 3854.

§42-33. Special lien of officer levying attachment or execution.

An officer, who levies an attachment or execution upon personal property, acquires a special lien, dependent on possession, upon such property, which authorizes him to hold it until the process is discharged or satisfied, or a judicial sale of the property is had. R.L. 1910, § 3855.

§42-34. Other liens.

Innkeepers, boarding housekeepers, attorneys-at-law and others, have liens which are defined and regulated. R.L. 1910, § 3856.

§42-35. Judgment liens.

The lien of a judgment is regulated by civil procedure. R.L. 1910, § 3857.

§42-36. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102).

§42-37. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102).

§42-38. Repealed by Laws 1961, p. 181, § 10-102 (Uniform Commercial Code, Title 12A, § 10-102).

§42-39. Keeper of inn, hotel, boardinghouse, or rooming house - Lien on baggage and other property - Limitation - Enforcement.

The keeper of any inn, hotel, boardinghouse, or rooming house, whether individual, partnership or corporation, shall have a lien on the baggage and other property in and about such inn, brought to the same by or under the control of his guest or boarders for the proper charges due him from such guests or boarders for accommodation, board and lodging, and for all money paid for or advanced to them, not to exceed the sum of Two Hundred Dollars (\$200.00), and for such other extras as are furnished at the request of such guests, and said innkeeper, hotelkeeper or rooming house keeper shall have the right to detain such baggage and other property until the amount of such charges are paid and such baggage and other property shall be exempt from attachment or execution until such innkeeper's lien and the cost of satisfying it are paid. The innkeeper, boardinghouse or hotelkeeper or rooming house keeper shall retain such baggage and other property upon which he has a lien for a period of ninety (90) days, at the expiration of which time, if the lien is not satisfied, he may sell such baggage and other property at public auction, first giving notice of the time and place of sale by posting at least three notices thereof in public places in the county where the inn or hotel is situated, and also by mailing a copy of such notice

addressed to said guest or boarder at the place of residence designated by the register of such inn or hotel. And after satisfying the lien and any costs that may accrue, any residue remaining shall, on demand, within six (6) months, be paid to such guest or boarder, and if not so demanded within six (6) months from date of sale, such residue shall be deposited by such innkeeper with the treasurer of the county; said residue shall be retained by the county treasurer for a period of one (1) year, and if not claimed within that time by the owner thereof, it shall be placed to the credit of the school fund.

Laws 1915, c. 178, § 2.

§42-40. Repealed by Laws 1986, c. 292, § 160, eff. Nov. 1, 1986.

§42-41. Repealed by Laws 1986, c. 292, § 160, eff. Nov. 1, 1986.

§42-42. Repealed by Laws 1983, c. 72, § 1, emerg. eff. April 29, 1983.

§42-43. Hospital liens in personal injury cases - Priority - Exception.

A. Every hospital in this state, which shall furnish emergency medical or other service to any patient injured by reason of an accident not covered by the Workers' Compensation Code, shall, if such injured party shall assert or maintain a claim against another for damages on account of such injuries, have a lien upon any recovery or sum had or collected or to be collected by such patient, or by his or her heirs, personal representatives or next of kin in the case of his or her death, whether by judgment or by settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient in such hospital up to the date of payment of such damages. Provided, however, the lien shall be inferior to any lien or claim of any attorney or attorneys for handling the claim on behalf of such patient, his or her heirs or personal representatives; provided, further, that the lien herein set forth shall not be applied or considered valid against any claim for amounts due under the Workers' Compensation Code in this state.

B. In addition to the lien provided for in subsection A of this section, every hospital in this state, which shall furnish emergency medical or other service to any patient injured by reason of an accident not covered by the Workers' Compensation Code, shall have, if the injured person asserts or maintains a claim against an insurer, a lien for the amount due for the emergency medical or other service upon any monies payable by the insurer to the injured person. Provided, however, the lien shall be inferior to any lien or claim of any attorney or attorneys for handling the claim on

behalf of such patient, his or her heirs or personal representatives; provided, further, that the lien herein set forth shall not be applied or considered valid against any claim for amounts due under the Workers' Compensation Code in this state.

C. This section shall apply, in medically referred cases, to a medical diagnostic imaging facility not affiliated with a hospital that provides diagnostic imaging that includes, but is not limited to, modalities such as Magnetic Resonance Imaging (MRI), Computed Tomography (CT) and Positron Emission Tomography (PET).

Added by Laws 1969, c. 231, § 1, emerg. eff. April 21, 1969.

Amended by Laws 2008, c. 190, § 1, eff. Nov. 1, 2008; Laws 2012, c. 146, § 1, eff. Nov. 1, 2012.

§42-44. Filing of notice of lien - Enforcement by civil action.

A. No such lien shall be effective unless a written notice containing a statement of the amount claimed, the name and address of the injured person, the date of the accident, the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be filed in the office of the county clerk of the county in which such hospital is located, on the mechanic's and materialman's docket, prior to the payment of any monies to such injured person, his attorneys or legal representatives, as compensation for such injuries; nor unless the hospital shall also send, by registered or certified mail postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries sustained prior to the payment of any monies to such injured person, the injured person's attorneys or legal representatives, as compensation for such injuries. Such hospital shall mail a copy of such notice to any insurance carrier which has insured such person, firm or corporation against such liability, if the name and address shall be known. Such hospital shall also send, by registered or certified mail, a copy of such notice to such patient upon whom emergency medical or other service has been performed, if the name and address of such patient shall be known to the hospital or can with reasonable diligence be ascertained. A copy of said notice shall be mailed to any attorney for the patient, provided that the hospital has notice of the name of such attorney.

B. The liens provided for in this section and Section 43 of this title may be enforced by civil action in the district court of the county where the lien was filed. Such an action shall be brought within one (1) year after the hospital becomes aware of final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice,

pleading and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable. Added by Laws 1969, c. 231, § 2, emerg. eff. April 21, 1969. Amended by Laws 1978, c. 68, § 1, eff. Oct. 1, 1978; Laws 1994, c. 202, § 1, eff. Sept. 1, 1994; Laws 2018, c. 195, § 1, emerg. eff. May 3, 2018.

§42-45. Insurance agent's lien.

A. Every insurance agent licensed as such under the laws of this state who shall pay the premium on any policy of insurance to an insurer for and on behalf of any person to whom such policy is issued shall have a lien upon all refunds, proceeds or other funds payable to the insured under the provisions of such policy for all sums due the agent for the premium on any policy of insurance procured by the agent for the insured.

B. No such lien shall be effective unless a written statement setting forth the amount claimed, identifying the insurance policy or policies against which the lien is asserted, and containing the name and address of the insured, the insurer, and the agent shall be filed in the office of the county clerk of the county in which the insured resides or has its principal place of business. The statement shall be signed by the insurance agent and verified by affidavit. The statement shall be recorded by the county clerk on the mechanics and materialman's lien docket.

C. Immediately upon filing the lien statement, the insurance agent shall mail, by certified or registered mail, postage prepaid, a copy of such statement with a statement of the date of filing thereof to the insured and the insurer at the address indicated for each on the insurance policy or policies against which the lien is asserted or at their last-known address if a later address is known.

D. Upon receipt of a copy of such lien statement the insurer or insurers named in the statement shall withhold from any sums thereafter payable to the insured under the provisions of any policy identified in the statement an amount equal to the claim of the insurance agent until the lien is released or otherwise discharged in proceedings to enforce the lien.

Added by Laws 1985, c. 136, § 1, eff. Nov. 1, 1985.

§42-46. Physician's lien.

A. Every physician who performs medical services or any other professional person who engages in the healing arts, within their scope of practice pursuant to Title 59 of the Oklahoma Statutes for any person injured as a result of the negligence or act of another, shall, if the injured person asserts or maintains a claim against such other person for damages on account of such injuries, have a lien for the amount due for such medical or healing arts services upon that part going or belonging to the injured person of any

recovery or sum had or collected or to be collected by the injured person, or by the heirs, personal representative, or next of kin of the injured person in the event of his death, whether by judgment, settlement, or compromise. Such lien shall be inferior to any lien or claim of any attorney handling the claim for or on behalf of the injured person. The lien shall not be applied or considered valid against any claim for amounts due pursuant to the provisions of Title 85A of the Oklahoma Statutes.

B. In addition to the lien provided for in subsection A of this section, every physician or professional person licensed under Title 59 of the Oklahoma Statutes who performs medical or healing arts within their scope of practice for any person injured as a result of the negligence or act of another, shall have, if the injured person asserts or maintains a claim against an insurer, a lien for the amount due for such medical or healing arts services upon any monies payable by the insurer to the injured person.

C. No lien which is provided for in this section shall be effective unless, before the payment of any monies to the injured person, the attorney for the injured person, or legal representative as compensation for such injuries or death:

1. A written notice is sent setting forth a statement of the amount claimed, identifying the insurance policy or policies against which the lien is asserted, if any, and containing the name and address of the physician or professional person licensed under Title 59 of the Oklahoma Statutes claiming the lien, the injured person, and the person, firm, or corporation against whom the claim is made, is filed on the mechanic's and materialman's lien docket in the office of the county clerk of the county where the principal office of the physician or professional person licensed under Title 59 of the Oklahoma Statutes is located; and

2. The physician or professional person licensed under Title 59 of the Oklahoma Statutes sends, by registered or certified mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person, firm, or corporation against whom the claim is made and to the injured person. The physician or professional person licensed under Title 59 of the Oklahoma Statutes shall also send a copy of the notice to the attorney for the injured person, if the name and address of such attorney is known to the physician or professional person licensed under Title 59 of the Oklahoma Statutes.

D. The liens provided for in this section may be enforced by civil action in the district court of the county where the lien was filed. Such an action shall be brought within one (1) year after the physician or professional person licensed under Title 59 of the Oklahoma Statutes becomes aware of final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, pleading, and proceedings in the

action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

Added by Laws 1985, c. 136, § 3, eff. Nov. 1, 1985. Amended by Laws 1994, c. 202, § 2, eff. Sept. 1, 1994; Laws 2008, c. 190, § 2, eff. Nov. 1, 2008; Laws 2018, c. 195, § 2, emerg. eff. May 3, 2018.

§42-47. Provider of seed, chemicals, pesticides, herbicides or fertilizer - Agricultural lien.

A. Any person selling, furnishing, applying or providing to the owner of crops which are growing or to be grown, any seed, chemicals, pesticides, herbicides or fertilizer for the growing of the crops shall, upon filing, have a lien on the crops for the amount due for such seed, chemicals, pesticides, herbicides or fertilizer or for the application thereof. The lien provided for in this section shall be subject to all prior perfected liens.

B. The lien created by this section shall not be effective unless filed as an agricultural lien pursuant to Article 9 of the Uniform Commercial Code.

C. The lien created by this section may be foreclosed by the sale of the crops subject to the lien anytime within twelve (12) months after filing of the lien in accordance with the provisions of Title 12A of the Oklahoma Statutes.

Added by Laws 1992, c. 276, § 1, eff. Sept. 1, 1992. Amended by Laws 2000, c. 371, § 170, eff. July 1, 2001; Laws 2009, c. 208, § 21, eff. Nov. 1, 2009.

§42-48. Provider of seed, chemicals, pesticides, herbicides or fertilizer - General agriculture commodities lien.

Any person selling, furnishing, applying or providing to the owner of crops which are growing or to be grown any seed, chemical, pesticide, herbicide or fertilizer for the growing of said crop shall have a general lien upon all agricultural commodities except livestock in his possession belonging to the owner of the crops, for the balance due to him in the course of business. The lien provided for in this section shall be subject to all prior perfected liens.

Added by Laws 1992, c. 276, § 2, eff. Sept. 1, 1992.

§42-49. Ambulance service provider liens.

A. Every person, company, governmental entity, or trust authority operating an ambulance service within this state who or which performs ambulance services for any person injured as a result of the negligent or intentional act of another shall, if the injured person asserts or maintains a claim against another person for damages on account of the injuries, have a lien for the amount due for the ambulance services upon any recovery or sum had or collected or to be collected by the injured person or the estate of the injured person in the event of the injured person's death, whether

by judgment, settlement, or compromise. The lien shall be inferior to any lien or claim of any attorney representing the injured person. The lien shall not be applied or considered valid against any claim for amounts due pursuant to the provisions of Title 85A of the Oklahoma Statutes.

B. In addition to the lien provided for in subsection A of this section, every person, company, governmental entity, or trust authority operating an ambulance service within this state who or which performs ambulance services for any person injured as a result of the negligent or intentional act of another shall have, if the injured person asserts or maintains a claim against an insurer, a lien for the amount due for the ambulance services upon any monies payable by the insurer to the injured person.

C. No lien which is provided for in this section shall be effective unless, before the payment of any monies to the injured person or the injured person's attorney or legal representative, as compensation for the injuries or death:

1. A written notice is sent setting forth a statement of the amount claimed, identifying the insurance policy or policies against which the lien is asserted, if any, and containing the name and address of the person, company, governmental entity, or trust authority claiming the lien, the injured person, and the person, firm, or corporation against whom the claim is made, is filed on the mechanic's and materialman's lien docket in the office of the county clerk of the county where the principal office of the claimant is located; and

2. The claimant sends, by registered or certified mail, postage prepaid, a copy of the notice with a statement of the date of filing thereof to the person, firm, or corporation against whom the claim is made and to the injured person. The claimant shall also send a copy of the notice to the attorney for the injured person, if the name and address of the attorney is known to the claimant.

D. A lien created pursuant to this section may be enforced in a civil action in the district court of the county where the lien was filed. An action shall be brought within one (1) year of a final judgment, settlement, or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, pleading, and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable. Added by Laws 1995, c. 194, § 5, eff. Nov. 1, 1995. Amended by Laws 1999, c. 293, § 23, eff. Nov. 1, 1999; Laws 2018, c. 195, § 3, emerg. eff. May 3, 2018.

§42-90. Notice preparers to register and submit annual fee.

A person or persons charging a fee for the preparation or assistance in preparation of notices required by Chapter 2 of Title 42 of the Oklahoma Statutes, other than a person licensed under

Title 5 of the Oklahoma Statutes, shall register with and submit a fifty-dollar annual fee to Service Oklahoma; provided, however, such requirements shall not apply to a lawful possessor or employee of a lawful possessor of the property for which such notices are issued. All documentation related to notices prepared by a person required to register pursuant to this section shall include the name of the person. A penalty of One Hundred Dollars (\$100.00) shall be imposed upon a person who prepares or assists in the preparation of notices in violation of the requirements of this section. Service Oklahoma shall promulgate rules to effectuate the requirements of this section.

Added by Laws 2021, c. 477, § 1, eff. Jan. 1, 2022. Amended by Laws 2023, c. 310, § 9, eff. July 1, 2023.

§42-91. Lien on certain personal property for service thereon - Foreclosure - Notice - Purchaser - Unpaid checks - Repossession.

A. 1. a. This section applies to every vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer that has a certificate of title issued by Service Oklahoma or by a federally recognized Indian tribe in the State of Oklahoma, except as otherwise provided in subsection D of this section. This section does not apply to farm equipment as defined in Section 91.2 of this title. The items of personal property to which this section applies are collectively referred to as "Section 91 Personal Property". If personal property is apparently covered both by this section and by Sections 191 through 200 of this title, the procedures set out in this section shall apply instead of Sections 191 through 200 of this title.

b. Salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes and class AA licensed wrecker services taking possession of a vehicle pursuant to an agreement with or at the direction of, or dispatched by, a state or local law enforcement or government agency, or pursuant to the abandoned vehicle renewal provisions of Section 954A of Title 47 of the Oklahoma Statutes, shall not be subject to the provisions of this section, but shall be subject to the provisions of Section 91A of this title. Unless otherwise provided by this subparagraph, class AA licensed wrecker services performing consensual tows shall be subject to the provisions of this section.

2. Any person who, while lawfully in possession of an article of Section 91 Personal Property, renders any service to the owner thereof by furnishing storage, rental space, material, labor or

skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to such person from the owner for such service.

3. This special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section. Failure to comply with any requirements of this section shall result in denial of any title application and cause the special lien to be subordinate to any perfected lien. Upon such denial, the applicant shall be entitled to one resubmission of the title application within fifteen (15) business days of receipt of the denial, and proceed to comply with the requirements of this section. In the event of a denial, the Notice of Possessory Lien and the Notice of Sale may be mailed on the same day in separate envelopes and storage charges shall only be charged from the date of resubmission; however, before a Notice of Sale is to be mailed, the personal property must have been possessed by the possessory lien claimant for at least twenty-one (21) days. Furthermore, if the denial was due to error by the party submitting the title application, then no additional fee for the resubmission shall be charged to the property owner. "Failure to comply" includes, but is not limited to:

- a. failure to timely provide additional documentation supporting or verifying any entry on submitted forms as requested by Service Oklahoma, including but not limited to United States Postal Service proof of return receipt requested such as Form 3811 or United States Postal Service electronic equivalent,
- b. failure to provide the documentation supporting lawful possession as defined in paragraph 3 of subsection H of this section,
- c. claimant or the agent being other than the individual who provided the service giving rise to the special lien, as in paragraph 2 of this subsection,
- d. claimant not being in possession of the vehicle,
- e. notice of lien not filed in accordance with paragraph 4 of this subsection, or
- f. foreclosure notification and proceedings not accomplished in accordance with paragraph 6 of this section.

4. Any person claiming the special lien provided in paragraph 2 of this subsection shall mail a notice of such lien, no later than sixty (60) days after the first services are rendered, by regular, first-class United States mail, and by certified mail, return receipt requested, to all interested parties who reside at separate locations. If services provided are pursuant to a contract primarily for the purpose of storage or rental of space, the

beginning date of the sixty-day period provided in the previous sentence shall be the first day of the first period or partial period for which rental or storage charges remain unpaid. The notice shall be in writing and shall contain, but not be limited to, the following:

- a. a statement that the notice is a Notice of Possessory Lien,
- b. the complete legal name, physical and mailing address, and telephone number of the claimant,
- c. the complete legal name, physical and mailing address of the person who requested that the claimant render service to the owner by furnishing material, labor or skill, storage, or rental space, or the date the property was abandoned if the claimant did not render any other service,
- d. a description of the article of personal property, including a photograph if the property is Section 91 Personal Property, and the complete physical and mailing address of the location of the article of personal property,
- e. an itemized statement describing the date or dates the labor or services were performed and material furnished, and the charges claimed for each item, the totals of which shall equal the total compensation claimed,
- f. a statement by the claimant that the materials, labor or skill furnished, or arrangement for storage or rental of space, was authorized by the owner of the personal property and was in fact provided or performed, and written proof of authority to perform the work, labor or service, or that the property was abandoned by the owner if the claimant did not render any other service, and that storage or rental fees will accrue as allowed by law, and
- g. the signature of the claimant which shall be notarized and, if applicable, the signature of the claimant's attorney. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted.

5. For services rendered or vehicles abandoned on or after November 1, 2005, storage charges or charges for rental of space, unless agreed to by contract as part of an overall transaction or arrangement that was primarily for the purpose of storage of the Section 91 Personal Property or rental of space, may only be assessed beginning with the day that the Notice of Possessory Lien

is mailed as evidenced by certified mail. Provided, however, in the case of contractual charges incurred for storage or rental of space in an overall transaction primarily for the purpose of storage or rental, charges subject to the special lien may only be assessed beginning with a date not more than sixty (60) days prior to the day that the Notice of Possessory Lien is mailed, and shall accrue only at the regular periodic rate for storage or rental as provided in the contract, adjusted for partial periods of storage or rental. The maximum allowable compensation for storage shall not exceed the fees established by the Corporation Commission for nonconsensual tows.

6. The lien may be foreclosed by a sale of such personal property upon the notice and in the manner following: The Notice of Sale shall be in writing and shall contain, but not be limited to:

- a. a statement that the notice is a Notice of Sale,
- b. the names of all interested parties known to the claimant,
- c. a description of the property to be sold, including a photograph if the property is Section 91 Personal Property and if the condition of such property has materially changed since the mailing of Notice of Possessory Lien required pursuant to paragraph 4 of this subsection,
- d. a notarized statement of the nature of the work, labor or service performed, material furnished, or storage or rental of space, and the date thereof, and the name of the person who authorized the work, labor or service performed, or the storage or rental arrangement, and written proof of authority to perform the work, labor or service, or that the property was abandoned if the claimant did not render any other service,
- e. the date, time, and exact physical location of sale,
- f. the name, complete physical address, mailing address, and telephone number of the party foreclosing such lien. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
- g. itemized charges which shall equal the total compensation claimed.

7. Such Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and a copy of the notice shall be mailed to all interested parties at their last-known post office address by regular, first-class United States mail and

by certified mail, return receipt requested, at least ten (10) days before the date of the sale. If the item of personal property is a manufactured home, notice shall also be sent by certified mail to the county treasurer and to the county assessor of the county where the manufactured home is located.

8. Interested parties shall include all owners of the article of personal property as indicated by the certificate of title issued by Service Oklahoma or by a federally recognized Indian tribe in the State of Oklahoma; lien debtors, if any, other than the owners; any lienholder whose lien is noted on the face of the certificate of title; and any other person having any interest in the article of personal property, of whom the claimant has actual notice.

9. Any interested party shall be permitted to inspect and verify the services rendered by the claimant prior to the sale of the article of personal property during normal business hours. The lienholder shall be allowed to retrieve the Section 91 Personal Property without being required to bring the title into the lienholder's name, if the lienholder provides proof it is a lienholder and any payment due the claimant for lawful charges where the claimant has complied with the requirements of this section. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss.

10. The claimant or any other person may in good faith become a purchaser of the property sold.

11. Proceedings for foreclosure under this act shall be commenced no sooner than ten (10) days and no later than thirty (30) days after the Notice of Possessory Lien has been mailed as evidenced by certified mail. The date actually sold shall be within sixty (60) days from the date of the Notice of Sale as evidenced by certified mail.

B. 1. a. Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an article of personal property on which the person has a special lien created by subsection A of this section, which check or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon the personal property.

b. The person claiming such lien shall, within thirty (30) days from the date of dishonor of the check or other written order for payment of money, file in the office of the county clerk of the county in which the property is situated a sworn statement that:

(1) the check or other written order for immediate payment of money, copy thereof being attached,

was received for labor, material or supplies for producing or repairing an article of personal property, or for other specific property-related services covered by this section,

- (2) the check or other written order was not paid, and
- (3) the uttering of the check or other written order constituted the means for inducing the person, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the article of personal property.

2. a. Any person who renders service to the owner of an article of personal property by furnishing storage, rental space, material, labor, or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage, or carriage thereof shall have a special lien on such property pursuant to this section if such property is removed from the person's possession, without such person's written consent or without payment for such service.
- b. The person claiming such lien shall, within five (5) days of such nonauthorized removal, file in the office of the county clerk of the county in which the property is located, a sworn statement including:
 - (1) that services were rendered on or in relation to the article of personal property by the person claiming such lien,
 - (2) that the property was in the possession of the person claiming the lien but such property was removed without his or her written consent,
 - (3) an identifying description of the article of personal property on which the service was rendered, and
 - (4) that the debt for the services rendered on or in relation to the article of personal property was not paid. Provided, if the unpaid total amount of the debt for services rendered on or in relation to the article of personal property is unknown, an approximated amount of the debt due and owing shall be included in the sworn statement but such approximated debt may be amended within thirty (30) days of such filing to reflect the actual amount of the debt due and owing.

3. The enforcement of the lien shall be within sixty (60) days after filing the lien in the manner provided by law for enforcing

the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.

C. If the person who renders service to the owner of an article of personal property to which this section applies relinquishes or loses possession of the article due to circumstances described in subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of subsection B of this section, the person claiming the lien shall be entitled to possession of the article until the amount due is paid, unless the article is possessed by a person who became a bona fide purchaser. Entitlement to possession shall be in accordance with the following:

1. The claimant may take possession of an article pursuant to this subsection only if the person obligated under the contract for services has signed an acknowledgement of receipt of a notice that the article may be subject to repossession. The notice and acknowledgement pursuant to this subsection shall be:

- a. in writing and separate from the written contract for services, or
- b. printed on the written contract for services, credit agreement or other document which displays the notice in bold-faced, capitalized and underlined type, or is separated from surrounding written material so as to be conspicuous with a separate signature line;

2. The claimant may require the person obligated under the contract for services to pay the costs of repossession as a condition for reclaiming the article only to the extent of the reasonable fair market value of the services required to take possession of the article;

3. The claimant shall not transfer to a third party or to a person who performs repossession services, a check, money order, or credit card transaction that is received as payment for services with respect to an article and that is returned to the claimant because of insufficient funds or no funds, because the person writing the check, issuing the money order, or credit cardholder has no account or because the check, money order, or credit card account has been closed. A person violating this paragraph shall be guilty of a misdemeanor; and

4. An article that is repossessed pursuant to this subsection shall be promptly delivered to the location where the services were performed. The article shall remain at the services location at all times until the article is lawfully returned to the record owner or a lienholder or is disposed of pursuant to this section.

D. 1. If a vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer has a certificate of title issued by Service Oklahoma or by a federally recognized Indian tribe in the State of Oklahoma, but there is no

active lien recorded on the certificate of title, Section 91A of this title will apply instead of this section. Likewise, if there is an active lien recorded on the certificate of title but the lien is over fifteen (15) years old and the property is not a manufactured home, Section 91A of this title will apply instead of this section.

2. If personal property that otherwise would be covered by this section has been registered by Service Oklahoma or by a federally recognized Indian tribe in the State of Oklahoma, and there is a lien of record but no certificate of title has been issued, Section 91A of this title will apply instead of this section.

3. If personal property otherwise would be covered by this section, but the services were rendered or the property was abandoned prior to November 1, 2005, Section 91A of this title will apply instead of this section.

E. A person who knowingly makes a false statement of a material fact regarding the furnishing of storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof in a proceeding under this section, or attempts to use or uses the provisions of this section to foreclose an owner or lienholder's interest in a vehicle knowing that any of the statements made in the proceeding are false, upon conviction, shall be guilty of a felony.

F. Upon receipt of notice of legal proceedings, Service Oklahoma shall cause the sale process to be put on hold until notice of resolution of court proceedings is received from the court. If such notice of commencement of court proceedings is not filed with Service Oklahoma, the possessory lien sale process may continue.

G. No possessory lien sale shall be held on a Sunday.

H. For purposes of this section:

1. "Possession" includes actual possession and constructive possession;

2. "Constructive possession" means possession by a person who, although not in actual possession, does not have an intention to abandon property, knowingly has both power and the intention at a given time to exercise dominion or control over the property, and who holds claim to such thing by virtue of some legal right;

3. "Lawfully in possession" means a person has documentation from the owner or the owner's authorized agent, or an insurance company or its authorized agent, authorizing the furnishing of material, labor or storage, or that the property was authorized to be towed to a repair facility. If the person lacks such documentation, he or she shall not be lawfully in possession of the Section 91 Personal Property and shall not be entitled to a special lien as set forth in this section; and

4. "Itemized charges" means total parts, total labor, total towing fees, total storage fees, total processing fees and totals of

any other fee groups, the sum total of which shall equal the compensation claimed.

I. For purposes of this section, the United States Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.

J. If a person claiming a special lien pursuant to this section fails to comply with any of the requirements of this section, any interested party may proceed against the person claiming such lien for all damages arising therefrom, including conversion, if the article of personal property has been sold. If the notice or notices required by this section shall be shown to be knowingly false or fraudulent, the interested party shall be entitled to treble damages. The prevailing party shall be entitled to all costs, including reasonable attorney fees.

K. This section shall apply to all actions or proceedings that commence on or after the effective date of this act.

R.L.1910, § 3852. Amended by Laws 1955, p. 248, § 1; Laws 1973, c. 111, § 1, emerg. eff. May 4, 1973; Laws 1992, c. 309, § 1, eff. Sept. 1, 1992; Laws 2003, c. 214, § 1, eff. July 1, 2003; Laws 2005, c. 213, § 4, eff. Nov. 1, 2005; Laws 2005, c. 477, § 1, eff. Nov. 1, 2005; Laws 2006, c. 247, § 1; Laws 2008, c. 98, § 1, eff. July 1, 2008; Laws 2011, c. 355, § 11, eff. Nov. 1, 2011; Laws 2014, c. 405, § 1, eff. Nov. 1, 2014; Laws 2016, c. 316, § 1, emerg. eff. May 20, 2016; Laws 2023, c. 68, § 1, eff. Nov. 1, 2023; Laws 2024, c. 452, § 27, emerg. eff. June 14, 2024.

§42-91.1. Abandoned vehicle auctions - Exemption from fees and taxes.

Any abandoned vehicle auction performed by a class AA wrecker or lien claimant shall be exempt from all prior years' tag fees, title fees, stop flag fees, and any other fees imposed by the state from the prior ownership of the vehicle. The wrecker operator, lien claimant, or buyer of the abandoned vehicle will be responsible only for fees incurred after the completion of the abandoned vehicle sale unless the buyer is the registered vehicle owner prior to the towing or abandonment of the vehicle, in which case all fees will be due from the buyer. Vehicles purchased from a class AA wrecker at an abandoned vehicle auction on which a junk title will be issued, shall be exempt from motor vehicle excise tax.

Added by Laws 2004, c. 360, § 1, emerg. eff. May 27, 2004. Amended by Laws 2006, c. 247, § 3.

§42-91.2. Liens on farm equipment.

A. Any person who, at or with the owner's request or consent, performs work, or makes repairs or improvements on any farm equipment has a first and prior lien, subject to the restrictions

set forth in subsections B and C of this section, on such equipment for the total value of the services performed, including the reasonable value of all material used in the performance of such services and the reasonable value of all equipment replaced, added or installed.

B. If the lien claimant is in possession of the farm equipment for the purpose of having the work, repairs or improvements made, or the equipment replaced, added or installed thereon, the lien shall be first and prior and valid as long as the lien claimant retains possession of the equipment. The lien claimant shall retain the lien after releasing the equipment by filing within ninety (90) days thereafter a statement, under oath, of the items of the account, a description of the equipment on which the lien is claimed and the legal name of the owner of the equipment, with the county clerk in the county in this state where the owner resides, or if the owner does not reside in this state, then with the county clerk in the county where the equipment is located. Provided, once the lien claimant has released possession of the equipment, the lien established by this section shall be subordinate to any prior lien or security interest of record.

C. If the lien claimant was never in possession of the farm equipment, the lien claimant shall retain the lien by filing with the county clerk in the county where the owner resides, or if the owner does not reside in this state, then with the county clerk in the county where the equipment is located, within ninety (90) days after the date work was last performed, material was last furnished in performing such work or making such repairs or improvements, equipment was last replaced, added or installed or the farm equipment was last towed or stored, a statement, under oath, of the items of the account, a description of the equipment on which the lien is claimed, the legal name of the owner of the equipment and the date upon which work was last performed, material was last furnished in performing such work or making such repairs or improvements, equipment was last replaced, added or installed, or the equipment was last towed or stored. Provided, if the lien claimant was never in possession of the equipment, the lien established by this section shall be subordinate to any prior lien or security interest.

D. For purposes of this section, "farm equipment" means equipment, as defined in paragraph (33) of subsection (a) of Section 1-9-102 of Title 12A of the Oklahoma Statutes, that is primarily used in connection with a farming operation, as defined in paragraph (35) of subsection (a) of Section 1-9-102 of Title 12A of the Oklahoma Statutes.

Added by Laws 2005, c. 213, § 1, eff. Nov. 1, 2005.

§42-91A. Lien on certain personal property for service thereon - Certificate of title - Foreclosure - Notice - Purchaser - Unpaid checks - Repossession.

- A. 1. a. This section applies to all types of personal property other than:
 - (1) farm equipment as defined in Section 91.2 of this title, and
 - (2) "Section 91 Personal Property" as defined in Section 91 of this title.
 - b. This section applies to any vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer that is excluded from coverage under subsection A of Section 91 of this title because the personal property:
 - (1) does not have a certificate of title,
 - (2) has a certificate of title but does not have an active lien recorded on the certificate of title,
 - (3) has a certificate of title that is not issued by Service Oklahoma or by a federally recognized Indian tribe in the State of Oklahoma, or
 - (4) is otherwise excluded by subparagraph b of paragraph 1 of subsection A of Section 91 of this title or subsection D of Section 91 of this title.
 - c. If personal property has a certificate of title, or would be required to have a certificate of title under Oklahoma law, and is apparently covered both by this section and by Sections 191 through 200 of this title, the procedures set out in this section shall apply instead of Sections 191 through 200 of this title. If personal property without a certificate of title and not required to be titled under Oklahoma law is covered both by this section and Sections 191 through 200 of this title, the procedures set out in Sections 191 through 200 of this title shall apply instead of this section.
2. a. Any person who, while lawfully in possession of an article of personal property to which this section applies, renders any service to the owner thereof by furnishing storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to such person from the owner for such service. Charges owed under a contract primarily for the purpose of storage or rental of space shall be accrued

only at the regular periodic rate for storage or rental as provided in the contract, adjusted for partial periods of storage or rental.

- b. Except for Class AA licensed wrecker towing charges, the special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section. Failure to comply with any requirements of this section shall result in denial of any title application and cause the special lien to be subordinate to any perfected lien. Upon such denial, the applicant shall be entitled to one resubmission of the title application within thirty (30) business days of receipt of the denial, and proceed to comply with the requirements of this section. In the event of a denial, the Notice of Possessory Lien and the Notice of Sale may be mailed on the same day in separate envelopes and storage charges shall only be charged from the date of resubmission; however, before a Notice of Sale is to be mailed, the personal property must have been possessed by the possessory lien claimant for at least twenty-one (21) days. Furthermore, if the denial was due to error by the party submitting the title application, then no additional fee for the resubmission shall be charged to the property owner. "Failure to comply" includes, but is not limited to:
- (1) failure to timely provide additional documentation supporting or verifying any entry on submitted forms as requested by Service Oklahoma,
 - (2) failure to provide the documentation supporting lawful possession as outlined in paragraph 3 of subsection H of this section,
 - (3) claimant being other than the individual who provided the service giving rise to the special lien, as in subparagraph a of this paragraph,
 - (4) claimant not being in possession of the vehicle, or
 - (5) notification and proceedings not accomplished in accordance with subparagraph c of this paragraph, and paragraph 3 of this subsection.
- c. Any person claiming a lien under this section shall request, within five (5) business days of performing any service or work on the property, Service Oklahoma or other appropriate license agency to furnish the name and address of the current owner of and any lienholder upon the property. Service Oklahoma or an

appropriate license agency shall respond in person or by mail to the lien claimant within ten (10) business days of the receipt of the request for information. Service Oklahoma shall render assistance to ascertain ownership, if needed. The lien claimant shall send, within seven (7) business days of receipt of the requested information from Service Oklahoma or other license agency, a notice of the location of the property by certified mail with return receipt requested, postage prepaid, to the owner and any lienholder of the vehicle at the addresses furnished. The lien claimant may charge not more than Fifty Dollars (\$50.00) for processing plus the cost of postage if the notice is timely sent pursuant to the requirements of this subparagraph in addition to fees regulated by the Corporation Commission for licensed wreckers. If the lien claimant is unable to meet the time requirements due to a lack of or an altered vehicle identification number on the property, the lien claimant shall proceed diligently to obtain the proper vehicle identification number and shall meet the time requirements on the notice once the vehicle identification number is known. If the lien claimant is required to send additional notices because of change of ownership or lienholder after it has timely complied with the requirements of this subparagraph, the lien claimant shall remain in compliance if such additional notices are sent within the required time periods from the date of discovery of the new owners or lienholders. The notice shall be in writing and shall contain, but not be limited to, the following:

- (1) a statement that the notice is a Notice of Possessory Lien,
- (2) the complete legal name, physical and mailing address, and telephone number of the claimant,
- (3) the complete legal name, physical and mailing address of the person who requested that the claimant render service to the owner by furnishing material, labor or skill, storage, or rental space, or the date the property was abandoned if the claimant did not render any other service,
- (4) a description of the article of personal property, and the complete physical and mailing address of the location of the article of personal property,

- (5) the nature of the work, labor or service performed, material furnished, or the storage or rental arrangement, and the date thereof, and written proof of authority to perform the work, labor or service provided that, in the case of a law enforcement directed tow, the logbook entry prescribed in OAC 595:25-5-5 or the tow ticket as defined by the Corporation Commission shall serve as written proof of authority,
- (6) the signature of the claimant which shall be notarized and, if applicable, the signature of the claimant's attorney. If the claimant is a business, the name of the contact person representing the business shall be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
- (7) an itemized statement describing the date or dates the labor or services were performed and material furnished and the charges claimed for each item, the totals of which shall equal the total compensation claimed.

The lien claimant shall not be required to send the notice required in this subparagraph if the property is released to an interested party before the notice is mailed and no additional charges or fees continue to accrue. If a law enforcement agency has the property towed to a law enforcement facility, the person claiming a lien under this section shall not be required to send notice until the property is released by law enforcement to the claimant or the date which claimant starts charging storage, whichever is earlier. A lien claimant shall have an extension of ten (10) business days to send the notice required in this subparagraph if a state of emergency has been declared in the county in which the property is located.

- d. Subparagraphs b and c of this paragraph shall not apply to salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes.

3. The lien may be foreclosed by a sale of such personal property upon the notice and in the manner following: The notice shall be in writing and shall contain, but not be limited to:

- a. the names of the owner and any other known party or parties who may claim any interest in the property,
- b. a description of the property to be sold, including a visual inspection or a photograph if the property is a

- motor vehicle, and the physical location of the property,
- c. the nature of the work, labor or service performed, material furnished, or the storage or rental arrangement, and the date thereof, and written proof of authority to perform the work, labor or service provided. In the case of a law enforcement directed tow, the logbook entry prescribed in OAC 595:25-5-5 or the tow ticket as defined by the Corporation Commission, shall serve as written proof of authority,
 - d. the time and place of sale,
 - e. the name, telephone number, physical address and mailing address of the claimant, and agent or attorney, if any, foreclosing such lien. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
 - f. itemized charges which shall equal the total compensation claimed.
4. a. Such Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and a copy of the notice shall be mailed to the owner and any other party claiming any interest in the property, if known, at their last-known post office address, by certified mail, return receipt requested, at least ten (10) days before the time therein specified for such sale. If the item of personal property is a manufactured home, notice shall also be sent by certified mail to the county treasurer and to the county assessor of the county where the manufactured home is located.
- b. In the case of any item of personal property without a certificate of title and not required to be titled under Oklahoma law, a party who claims any interest in the property shall include all owners of the property; any secured party who has an active financing statement on file with the county clerk of Oklahoma County listing one or more owners of the property by legal name as debtors and indicating a collateral description that would include the property; and any other person having any interest in the personal property, of whom the claimant has actual notice.
 - c. In the case of personal property subject to this section for which a certificate of title has been

issued by any jurisdiction, a party who claims any interest in the property shall include all owners of the article of personal property as indicated by the certificate of title; lien debtors, if any, other than the owners; any lienholder whose lien is noted on the face of the certificate of title; and any other person having any interest in the article of personal property, of whom the claimant has actual notice.

- d. When the jurisdiction of titling for a vehicle, all-terrain vehicle, motorcycle, boat, outboard motor, or trailer that is five (5) model years old or newer, or a manufactured home that is fifteen (15) model years old or newer, cannot be determined by ordinary means, the claimant, the agent of the claimant, or the attorney of the claimant, shall request, in writing, that Service Oklahoma ascertain the jurisdiction where the vehicle or manufactured home is titled. Service Oklahoma shall, within fourteen (14) days from the date the request is received, provide information as to the jurisdiction where the personal property is titled. If Service Oklahoma is unable to provide the information, it shall provide notice that the record is not available.
- e. When personal property is of a type that Oklahoma law requires to be titled, the owner of record of that property is unknown, and the jurisdiction of titling and owner of record cannot be determined by ordinary means and also, if applicable, cannot be determined in accordance with the preceding subparagraph, then the special lien may be foreclosed by publication of a legal notice in a legal newspaper in the county where the personal property is located, as defined in Section 106 of Title 25 of the Oklahoma Statutes. Such notice shall include the description of the property by year, make, vehicle identification number if available from the property, the name of the individual who may be contacted for information, and the telephone number of that person or the address where the vehicle is located. The legal notice shall be published once per week for three (3) consecutive weeks. As soon as circumstances exist as described in the first sentence of this subparagraph, the first date of publication may occur even if the special lien has not accrued for over thirty (30) days. The first date available for public sale of the vehicle is the day following publication of the final notice, but no fewer than thirty (30) days after the lien has

accrued. When the owner of record is unknown, the Notice of Sale nevertheless must be completed and mailed to any known interested party by certified mail. For purposes of this paragraph, interested parties shall include all persons described in subparagraph b or subparagraph c of this paragraph, whichever is applicable, with the exception of any owner who is unknown. Except in circumstances described in paragraph 7 of this subsection that provide for a shorter time period, the Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and the Notice of Sale shall not be mailed until at least thirty (30) days after the lien has accrued.

5. The lienor or any other person may in good faith become a purchaser of the property sold.

6. Proceedings for foreclosure under this act shall commence in twenty (20) days after the lien has accrued, except as provided elsewhere in Oklahoma law.

7. Notwithstanding any other provision of law, proceedings for foreclosures for the storage of junk vehicles towed and stored pursuant to Section 955 of Title 47 of the Oklahoma Statutes by Class AA wreckers listed with the Motor Vehicle Division of the Department of Public Safety, may be commenced five (5) days after the lien has accrued. For purposes of this paragraph, "junk vehicles" means any vehicle that is more than ten (10) years old if the cost of a comparable vehicle would be less than Three Hundred Dollars (\$300.00) as quoted in the latest edition of the National Automobile Dealers Association Official Used Car Guide or latest monthly edition of any other nationally recognized published guidebook, adjusting to the condition of the vehicle.

B. 1. a. Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an article of personal property on which the person has a special lien created by subsection A of this section, which check or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon the personal property.

b. The person claiming such lien shall, within thirty (30) days from the date of dishonor of the check or other written order for payment of money, file in the office of the county clerk of the county in which the property is situated a sworn statement that:

(1) the check or other written order for immediate payment of money, copy thereof being attached,

was received for labor, material or supplies for producing or repairing an article of personal property, or for other specific property-related services covered by this section,

- (2) the check or other written order was not paid, and
- (3) the uttering of the check or other written order constituted the means for inducing the person, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the article of personal property.

2. a. Any person who renders service to the owner of an article of personal property by furnishing storage, rental space, material, labor, or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage, or carriage thereof shall have a special lien on such property pursuant to this section if such property is removed from the person's possession, without such person's written consent or without payment for such service.
- b. The person claiming such lien shall, within five (5) days of such nonauthorized removal, file in the office of the county clerk of the county in which the property is located, a sworn statement including:
 - (1) that services were rendered on or in relation to the article of personal property by the person claiming such lien,
 - (2) that the property was in the possession of the person claiming the lien but such property was removed without his or her written consent,
 - (3) an identifying description of the article of personal property on or in relation to which the service was rendered, and
 - (4) that the debt for the services rendered on or in relation to the article of personal property was not paid. Provided, if the unpaid total amount of the debt for services rendered on or in relation to the article of personal property is unknown, an approximated amount of the debt due and owing shall be included in the sworn statement but such approximated debt may be amended within thirty (30) days of such filing to reflect the actual amount of the debt due and owing.

3. The enforcement of the lien shall be within sixty (60) days after filing the lien in the manner provided by law for enforcing

the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.

C. If the person who renders service to the owner of an article of personal property to which this section applies relinquishes or loses possession of the article due to circumstances described in subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of subsection B of this section, the person claiming the lien shall be entitled to possession of the article until the amount due is paid, unless the article is possessed by a person who became a bona fide purchaser. Entitlement to possession shall be in accordance with the following:

1. The claimant may take possession of an article pursuant to this subsection only if the person obligated under the contract for services has signed an acknowledgment of receipt of a notice that the article may be subject to repossession. The notice and acknowledgment pursuant to this subsection shall be:

- a. in writing and separate from the written contract for services, or
- b. printed on the written contract for services, credit agreement or other document which displays the notice in bold-faced, capitalized and underlined type, or is separated from surrounding written material so as to be conspicuous with a separate signature line;

2. The claimant may require the person obligated under the contract for services to pay the costs of repossession as a condition for reclaiming the article only to the extent of the reasonable fair market value of the services required to take possession of the article;

3. The claimant shall not transfer to a third party or to a person who performs repossession services, a check, money order, or credit card transaction that is received as payment for services with respect to an article and that is returned to the claimant because of insufficient funds or no funds, because the person writing the check, issuing the money order, or credit cardholder has no account or because the check, money order, or credit card account has been closed. A person violating this paragraph shall be guilty of a misdemeanor; and

4. An article that is repossessed pursuant to this subsection shall be promptly delivered to the location where the services were performed. The article shall remain at the services location at all times until the article is lawfully returned to the record owner or a lienholder or is disposed of pursuant to this section.

D. 1. This section applies if a vehicle, all-terrain vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer has a certificate of title issued by Service Oklahoma or by a federally

recognized Indian tribe in Oklahoma, but there is no active lien recorded on the certificate of title.

2. This section applies if a vehicle, all-terrain vehicle, utility vehicle, motorcycle, boat, outboard motor or trailer has a certificate of title issued by Service Oklahoma or by a federally recognized Indian tribe in Oklahoma, and there is an active lien recorded on the certificate of title, but the lien is over fifteen (15) years old.

3. This section applies if personal property to which Section 91 of this title otherwise would apply has been registered by Service Oklahoma or by a federally recognized Indian tribe in the State of Oklahoma, and there is a lien of record but no certificate of title has been issued.

4. This section applies if personal property to which Section 91 of this title otherwise would apply has not been registered by either Service Oklahoma or a federally recognized Indian tribe in the State of Oklahoma, and no certificate of title has been issued, but there is a lien of record.

5. This section applies to personal property that otherwise would be covered by Section 91 of this title, except that the services were rendered or the property was abandoned prior to November 1, 2005.

6. This section applies to a vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer for which ownership cannot be determined by ordinary means or by Service Oklahoma Motor Vehicle Division, as provided in subparagraphs d and e of paragraph 4 of subsection A of this section, as applicable.

7. This section applies to items of personal property that are not required by Oklahoma law to be titled, and that do not have a certificate of title.

8. This section applies to salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes.

9. This section applies to class AA licensed wrecker services taking possession of a vehicle pursuant to an agreement with, or at the direction of, or dispatched by a state or local law enforcement or government agency, or pursuant to the abandoned vehicle removal provisions of Section 954A of Title 47 of the Oklahoma Statutes with respect to all types of personal property, regardless of whether that personal property has a certificate of title.

10. For a vehicle abandoned at a salvage pool, if the cost of repairing the vehicle for safe operation on the highway does not exceed sixty percent (60%) of the fair market value of the vehicle as defined in Section 1111 of Title 47 of the Oklahoma Statutes, a salvage title shall not be required.

E. A person who knowingly makes a false statement of a material fact regarding the furnishing of storage, rental space, material,

labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof in a proceeding under this section, or attempts to use or uses the provisions of this section to foreclose an owner or lienholder's interest in a vehicle knowing that any of the statements made in the proceeding are false, upon conviction, shall be guilty of a felony.

F. Upon receipt of notice of legal proceedings, Service Oklahoma shall cause the sale process to be put on hold until notice of resolution of court proceedings is received from the court. If such notice of commencement of court proceedings is not filed with Service Oklahoma, the possessory lien sale process may continue.

G. No possessory lien sale shall be held on a Sunday.

H. For purposes of this section:

1. "Possession" includes actual possession and constructive possession;

2. "Constructive possession" means possession by a person who, although not in actual possession, does not have an intention to abandon property, knowingly has both power and the intention at a given time to exercise dominion or control over the property, and who holds claim to such thing by virtue of some legal right;

3. "Lawfully in possession" means a person has documentation from the owner or the owner's authorized agent, or an insurance company or its authorized agent, authorizing the furnishing of material, labor or storage, or that the property was authorized to be towed to a repair facility.

Class AA wrecker services taking possession of a vehicle pursuant to an agreement with, or at the direction of, or dispatched by, a state or local law enforcement or government agency, or pursuant to the abandoned vehicle removal provisions of Section 954A of Title 47 of the Oklahoma Statutes, shall be considered lawfully in possession of the vehicle. If the person lacks such documentation, the procedures established by this section shall not apply; and

4. "Itemized charges" means total parts, total labor, total towing fees, total storage fees, total processing fees and totals of any other fee groups, the sum total of which shall equal the compensation claimed.

I. For purposes of this section, the United States Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.

J. If a person claiming a special lien pursuant to this section fails to comply with any of the requirements of this section, any interested party may proceed against the person claiming such lien for all damages arising therefrom, including conversion, if the article of personal property has been sold. If the notice or notices required by this section shall be shown to be knowingly

false or fraudulent, the interested party shall be entitled to treble damages. The prevailing party shall be entitled to all costs, including reasonable attorney fees.

K. Any interested party shall be permitted to visually inspect and verify the services rendered by the claimant prior to the sale of the article of property during normal business hours. If the claimant fails to allow any interested party to inspect the property, the interested party shall mail a request for inspection by certified mail, return receipt requested, to the claimant. Within three (3) business days of receipt of the request for inspection, the claimant shall mail a photograph of the property, by certified mail, return receipt requested, and a date of inspection within five (5) business days from the date of the notice to inspect. The lienholder shall be allowed to retrieve the property without being required to bring the title into the lienholder's name, if the lienholder provides proof it is a lienholder and any payment due the claimant for lawful charges where the claimant has complied with this section. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss. In the event any law enforcement agency places a hold on the property, the party wanting to inspect or photograph the property shall obtain permission from the law enforcement agency that placed the hold on the property before inspecting or photographing.

L. This section shall apply to all actions or proceedings that commence on or after August 22, 2014.

Added by Laws 2005, c. 477, § 2, eff. Nov. 1, 2005. Amended by Laws 2006, c. 247, § 2; Laws 2008, c. 98, § 2, eff. July 1, 2008; Laws 2014, c. 405, § 2, eff. Nov. 1, 2014; Laws 2016, c. 316, § 2, emerg. eff. May 20, 2016; Laws 2017, c. 183, § 1, eff. Nov. 1, 2017; Laws 2023, c. 68, § 2, eff. Nov. 1, 2023; Laws 2024, c. 452, § 29, emerg. eff. June 14, 2024.

§42-91v1. Lien on certain personal property for service thereon - Foreclosure - Notice - Purchaser - Unpaid checks - Repossession.

A. 1. a. This section applies to every vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer that has a certificate of title issued by the Oklahoma Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, except as otherwise provided in subsection D of this section. This section does not apply to farm equipment as defined in Section 91.2 of this title. The items of personal property to which this section applies are collectively referred to as "Section 91 Personal Property". If personal

property is apparently covered both by this section and by Sections 191 through 200 of this title, the procedures set out in this section shall apply instead of Sections 191 through 200 of this title.

- b. Salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes and class AA licensed wrecker services taking possession of a vehicle pursuant to an agreement with or at the direction of, or dispatched by, a state or local law enforcement or government agency, or pursuant to the abandoned vehicle renewal provisions of Section 954A of Title 47 of the Oklahoma Statutes, shall not be subject to the provisions of this section, but shall be subject to the provisions of Section 91A of this title. Unless otherwise provided by this subparagraph, class AA licensed wrecker services performing consensual tows shall be subject to the provisions of this section.

2. Any person who, while lawfully in possession of an article of Section 91 Personal Property, renders any service to the owner thereof by furnishing storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to such person from the owner for such service.

3. This special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section. Failure to comply with any requirements of this section shall result in denial of any title application and cause the special lien to be subordinate to any perfected lien. Upon such denial, the applicant shall be entitled to one resubmission of the title application within fifteen (15) business days of receipt of the denial, and proceed to comply with the requirements of this section. In the event of a denial, the Notice of Possessory Lien and the Notice of Sale may be mailed on the same day in separate envelopes and storage charges shall only be charged from the date of resubmission; however, before a Notice of Sale is to be mailed, the personal property must have been possessed by the possessory lien claimant for at least twenty-one (21) days. Furthermore, if the denial was due to error by the party submitting the title application, then no additional fee for the resubmission shall be charged to the property owner. "Failure to comply" includes, but is not limited to:

- a. failure to timely provide additional documentation supporting or verifying any entry on submitted forms as requested by the Tax Commission, including but not limited to United States Postal Service proof of

- return receipt requested such as Form 3811 or United States Postal Service electronic equivalent,
- b. failure to provide the documentation supporting lawful possession as defined in paragraph 3 of subsection H of this section,
 - c. claimant or the agent being other than the individual who provided the service giving rise to the special lien, as in paragraph 2 of this subsection,
 - d. claimant not being in possession of the vehicle,
 - e. notice of lien not filed in accordance with paragraph 4 of this subsection, or
 - f. foreclosure notification and proceedings not accomplished in accordance with paragraph 6 of this section.

4. Any person claiming the special lien provided in paragraph 2 of this subsection shall mail a notice of such lien, no later than sixty (60) days after the first services are rendered, by regular, first-class United States mail, and by certified mail, return receipt requested, to all interested parties who reside at separate locations. If services provided are pursuant to a contract primarily for the purpose of storage or rental of space, the beginning date of the sixty-day period provided in the previous sentence shall be the first day of the first period or partial period for which rental or storage charges remain unpaid. The notice shall be in writing and shall contain, but not be limited to, the following:

- a. a statement that the notice is a Notice of Possessory Lien,
- b. the complete legal name, physical and mailing address, and telephone number of the claimant,
- c. the complete legal name, physical and mailing address of the person who requested that the claimant render service to the owner by furnishing material, labor or skill, storage, or rental space, or the date the property was abandoned if the claimant did not render any other service,
- d. a description of the article of personal property, including a photograph if the property is Section 91 Personal Property, and the complete physical and mailing address of the location of the article of personal property,
- e. an itemized statement describing the date or dates the labor or services were performed and material furnished, and the charges claimed for each item, the totals of which shall equal the total compensation claimed,

- f. a statement by the claimant that the materials, labor or skill furnished, or arrangement for storage or rental of space, was authorized by the owner of the personal property and was in fact provided or performed, and written proof of authority to perform the work, labor or service, or that the property was abandoned by the owner if the claimant did not render any other service, and that storage or rental fees will accrue as allowed by law, and
- g. the signature of the claimant which shall be notarized and, if applicable, the signature of the claimant's attorney. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted.

5. For services rendered or vehicles abandoned on or after November 1, 2005, storage charges or charges for rental of space, unless agreed to by contract as part of an overall transaction or arrangement that was primarily for the purpose of storage of the Section 91 Personal Property or rental of space, may only be assessed beginning with the day that the Notice of Possessory Lien is mailed as evidenced by certified mail. Provided, however, in the case of contractual charges incurred for storage or rental of space in an overall transaction primarily for the purpose of storage or rental, charges subject to the special lien may only be assessed beginning with a date not more than sixty (60) days prior to the day that the Notice of Possessory Lien is mailed, and shall accrue only at the regular periodic rate for storage or rental as provided in the contract, adjusted for partial periods of storage or rental. The maximum allowable compensation for storage shall not exceed the fees established by the Corporation Commission for nonconsensual tows.

6. The lien may be foreclosed by a sale of such personal property upon the notice and in the manner following: The Notice of Sale shall be in writing and shall contain, but not be limited to:
- a. a statement that the notice is a Notice of Sale,
 - b. the names of all interested parties known to the claimant,
 - c. a description of the property to be sold, including a photograph if the property is Section 91 Personal Property and if the condition of such property has materially changed since the mailing of Notice of Possessory Lien required pursuant to paragraph 4 of this subsection,
 - d. a notarized statement of the nature of the work, labor or service performed, material furnished, or storage

or rental of space, and the date thereof, and the name of the person who authorized the work, labor or service performed, or the storage or rental arrangement, and written proof of authority to perform the work, labor or service, or that the property was abandoned if the claimant did not render any other service,

- e. the date, time, and exact physical location of sale,
- f. the name, complete physical address, mailing address, and telephone number of the party foreclosing such lien. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
- g. itemized charges which shall equal the total compensation claimed.

7. Such Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and a copy of the notice shall be mailed to all interested parties at their last-known post office address by regular, first-class United States mail and by certified mail, return receipt requested, at least ten (10) days before the date of the sale. If the item of personal property is a manufactured home, notice shall also be sent by certified mail to the county treasurer and to the county assessor of the county where the manufactured home is located.

8. Interested parties shall include all owners of the article of personal property as indicated by the certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma; lien debtors, if any, other than the owners; any lienholder whose lien is noted on the face of the certificate of title; and any other person having any interest in the article of personal property, of whom the claimant has actual notice.

9. Any interested party shall be permitted to inspect and verify the services rendered by the claimant prior to the sale of the article of personal property during normal business hours. The lienholder shall be allowed to retrieve the Section 91 Personal Property without being required to bring the title into the lienholder's name, if the lienholder provides proof it is a lienholder and any payment due the claimant for lawful charges where the claimant has complied with the requirements of this section. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss.

10. The claimant or any other person may in good faith become a purchaser of the property sold.

11. Proceedings for foreclosure under this act shall be commenced no sooner than ten (10) days and no later than thirty (30) days after the Notice of Possessory Lien has been mailed as evidenced by certified mail. The date actually sold shall be within sixty (60) days from the date of the Notice of Sale as evidenced by certified mail.

B. 1. a. Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an article of personal property on which the person has a special lien created by subsection A of this section, which check or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon the personal property.

b. The person claiming such lien shall, within thirty (30) days from the date of dishonor of the check or other written order for payment of money, file in the office of the county clerk of the county in which the property is situated a sworn statement that:

(1) the check or other written order for immediate payment of money, copy thereof being attached, was received for labor, material or supplies for producing or repairing an article of personal property, or for other specific property-related services covered by this section,

(2) the check or other written order was not paid, and

(3) the uttering of the check or other written order constituted the means for inducing the person, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the article of personal property.

2. a. Any person who renders service to the owner of an article of personal property by furnishing storage, rental space, material, labor, or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage, or carriage thereof shall have a special lien on such property pursuant to this section if such property is removed from the person's possession, without such person's written consent or without payment for such service.

b. The person claiming such lien shall, within five (5) days of such nonauthorized removal, file in the office

of the county clerk of the county in which the property is located, a sworn statement including:

- (1) that services were rendered on or in relation to the article of personal property by the person claiming such lien,
- (2) that the property was in the possession of the person claiming the lien but such property was removed without his or her written consent,
- (3) an identifying description of the article of personal property on which the service was rendered, and
- (4) that the debt for the services rendered on or in relation to the article of personal property was not paid. Provided, if the unpaid total amount of the debt for services rendered on or in relation to the article of personal property is unknown, an approximated amount of the debt due and owing shall be included in the sworn statement but such approximated debt may be amended within thirty (30) days of such filing to reflect the actual amount of the debt due and owing.

3. The enforcement of the lien shall be within sixty (60) days after filing the lien in the manner provided by law for enforcing the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.

C. If the person who renders service to the owner of an article of personal property to which this section applies relinquishes or loses possession of the article due to circumstances described in subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of subsection B of this section, the person claiming the lien shall be entitled to possession of the article until the amount due is paid, unless the article is possessed by a person who became a bona fide purchaser. Entitlement to possession shall be in accordance with the following:

1. The claimant may take possession of an article pursuant to this subsection only if the person obligated under the contract for services has signed an acknowledgement of receipt of a notice that the article may be subject to repossession. The notice and acknowledgement pursuant to this subsection shall be:

- a. in writing and separate from the written contract for services, or
- b. printed on the written contract for services, credit agreement or other document which displays the notice in bold-faced, capitalized and underlined type, or is

separated from surrounding written material so as to be conspicuous with a separate signature line;

2. The claimant may require the person obligated under the contract for services to pay the costs of repossession as a condition for reclaiming the article only to the extent of the reasonable fair market value of the services required to take possession of the article;

3. The claimant shall not transfer to a third party or to a person who performs repossession services, a check, money order, or credit card transaction that is received as payment for services with respect to an article and that is returned to the claimant because of insufficient funds or no funds, because the person writing the check, issuing the money order, or credit cardholder has no account or because the check, money order, or credit card account has been closed. A person violating this paragraph shall be guilty of a misdemeanor; and

4. An article that is repossessed pursuant to this subsection shall be promptly delivered to the location where the services were performed. The article shall remain at the services location at all times until the article is lawfully returned to the record owner or a lienholder or is disposed of pursuant to this section.

D. 1. If a vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer has a certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, but there is no active lien recorded on the certificate of title, Section 91A of this title will apply instead of this section. Likewise, if there is an active lien recorded on the certificate of title but the lien is over fifteen (15) years old and the property is not a manufactured home, Section 91A of this title will apply instead of this section.

2. If personal property that otherwise would be covered by this section has been registered by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, and there is a lien of record but no certificate of title has been issued, Section 91A of this title will apply instead of this section.

3. If personal property otherwise would be covered by this section, but the services were rendered or the property was abandoned prior to November 1, 2005, Section 91A of this title will apply instead of this section.

E. A person who knowingly makes a false statement of a material fact regarding the furnishing of storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof in a proceeding under this section, or attempts to use or uses the provisions of this section to foreclose an owner or lienholder's interest in a

vehicle knowing that any of the statements made in the proceeding are false, upon conviction, shall be guilty of a felony.

F. Upon receipt of notice of legal proceedings, the Tax Commission shall cause the sale process to be put on hold until notice of resolution of court proceedings is received from the court. If such notice of commencement of court proceedings is not filed with the Tax Commission, the possessory lien sale process may continue.

G. No possessory lien sale shall be held on a Sunday.

H. For purposes of this section:

1. "Possession" includes actual possession and constructive possession;

2. "Constructive possession" means possession by a person who, although not in actual possession, does not have an intention to abandon property, knowingly has both power and the intention at a given time to exercise dominion or control over the property, and who holds claim to such thing by virtue of some legal right;

3. "Lawfully in possession" means a person has documentation from the owner or the owner's authorized agent, or an insurance company or its authorized agent, authorizing the furnishing of material, labor or storage, or that the property was authorized to be towed to a repair facility. If the person lacks such documentation, he or she shall not be lawfully in possession of the Section 91 Personal Property and shall not be entitled to a special lien as set forth in this section; and

4. "Itemized charges" means total parts, total labor, total towing fees, total storage fees, total processing fees and totals of any other fee groups, the sum total of which shall equal the compensation claimed.

I. For purposes of this section, the United States Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.

J. If a person claiming a special lien pursuant to this section fails to comply with any of the requirements of this section, any interested party may proceed against the person claiming such lien for all damages arising therefrom, including conversion, if the article of personal property has been sold. If the notice or notices required by this section shall be shown to be knowingly false or fraudulent, the interested party shall be entitled to treble damages. The prevailing party shall be entitled to all costs, including reasonable attorney fees.

K. This section shall apply to all actions or proceedings that commence on or after the effective date of this act.

R.L.1910, § 3852. Amended by Laws 1955, p. 248, § 1; Laws 1973, c. 111, § 1, emerg. eff. May 4, 1973; Laws 1992, c. 309, § 1, eff. Sept. 1, 1992; Laws 2003, c. 214, § 1, eff. July 1, 2003; Laws 2005,

c. 213, § 4, eff. Nov. 1, 2005; Laws 2005, c. 477, § 1, eff. Nov. 1, 2005; Laws 2006, c. 247, § 1; Laws 2008, c. 98, § 1, eff. July 1, 2008; Laws 2011, c. 355, § 11, eff. Nov. 1, 2011; Laws 2014, c. 405, § 1, eff. Nov. 1, 2014; Laws 2016, c. 316, § 1, emerg. eff. May 20, 2016; Laws 2023, c. 68, § 1, eff. Nov. 1, 2023.

§42-92. Laborer's lien on products of labor.

Laborers who perform work and labor for any person under a verbal or written contract, if unpaid for the same, shall have a lien on the production of their labor, for such work and labor; Provided, that such lien shall attach only while the title to the property remains in the original owner.

Laws 1910-11, c. 114, p. 254, § 1.

§42-93. Enforcement of lien.

The lien provided for in this act may be enforced as in an ordinary action or by attachment proceeding as provided in the Code of Civil Procedure.

Laws 1910-11, c. 114, p. 254, § 2.

§42-94. When lien attaches.

Liens under the provisions of this act are in full force and effect from and after the time the labor is performed.

Laws 1910-11, c. 114, p. 254, § 3.

§42-95. Time for enforcement.

The proceedings under this act shall be commenced within eight (8) months after the work is done.

Laws 1910-11, c. 114, p. 254, § 4.

§42-96. Priority of lien.

Liens created under this act shall take precedence over all other liens whether created prior or subsequent to the laborer's lien herein created and provided.

Laws 1910-11, c. 114, p. 254, § 5.

§42-97. Lien for labor or materials for production, alteration or repair of personal property - Commencement of lien.

Any person, firm or corporation who furnishes labor, money, material or supplies for the production of, altering or repairs of any personal property at the request of the owner of said property, shall have a lien for the value of his money, labor, material or supplies upon said personal property as provided for in Section 2 of this act. Lien to date from commencement of furnishing of labor, money, material or supplies.

Laws 1917, c. 187, p. 350, § 1.

§42-98. Filing of statement of lien with county clerk - Innocent purchasers.

A. 1. Except as otherwise provided by this chapter, any person entitled to a lien pursuant to this chapter shall within one hundred twenty (120) days after last furnishing of labor, money, material or supplies for the production of, altering or repairing of said personal property, file in the office of the county clerk of the county in which the property is situated a statement in writing verified by oath, showing the amount of labor, money, material or supplies furnished for the producing of, altering or repairing of said personal property, the name of the person for, and by whom labor, money, material or supplies, was furnished.

2. If the person entitled to such lien does not file such statement within the time required by this chapter, such person shall be deemed to have waived his rights thereto.

3. The lien provided for in this chapter shall not attach to any personal property after it has been purchased by an innocent purchaser for value, and has passed into his possession unless the lien shall have been filed with the county clerk of the county before the property was purchased by such purchaser, or he shall have received written notice, from the party entitled to the lien, of his intention to file the same.

B. Immediately upon the receipt of such statement, the county clerk shall enter a record of the same in a book kept for that purpose, to be called the Personal Property Lien Journal, which shall be ruled off into separate columns, with headings as follows: "When filed", "Name of owner", "Name of claimant", "Amount claimed", and "Remarks", and the clerk shall make the proper entry in each column.

Added by Laws 1917, c. 187, p. 351, § 2. Amended by Laws 1992, c. 309, § 2, eff. Sept. 1, 1992; Laws 2003, c. 409, § 1, eff. Nov. 1, 2003.

§42-99. Priority of mortgage liens.

The lien herein provided for shall be subject to prior mortgage liens, unless the holder thereof has received notice of the intention of the furnishing of said labor, money, material or supplies and consents thereto in writing after which the holder of such mortgage lien shall become jointly liable with the owner of said property for the expense of producing, altering or repairing of same.

Laws 1917, c. 187, p. 351, § 3.

§42-100. Foreclosure of liens.

Said lien may be foreclosed by the sale of the property so covered any time within twelve (12) months in the same manner provided by law for the foreclosure of chattel mortgages. Laws 1917, c. 187, p. 351, § 4.

§42-101. Sale, disposal or removal of property covered by lien - Punishment.

Any person convicted of selling, disposing of or removing property covered by a lien not subordinate to that person's interest, arising under Sections 91 through 102 of this title or Section 1 or 2 of this act without either obtaining the written consent of the owner of the lien or making provision adequate to satisfy the lien, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than six (6) months or by a fine of not less than One Hundred Dollars (\$100.00). Laws 1917, c. 187, p. 351, § 5; Laws 1992, c. 309, § 3, eff. Sept. 1, 1992; Laws 2005, c. 213, § 3, eff. Nov. 1, 2005.

§42-102. Discharge of lien when satisfied.

It shall be the duty of the holder of the lien under this act when the same is satisfied to immediately file a notice of discharge thereof with the county clerk of the county wherein the lien is filed. Failure to do so shall subject the holder of the lien to a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Laws 1917, c. 187, p. 352, § 6.

§42-104. Enforcement and foreclosure of liens on farm equipment.

A lien granted under Section 1 of this act with respect to farm equipment may be enforced and foreclosed in the same manner as security agreements pursuant to the Uniform Commercial Code. Any legal action taken by or on behalf of a lien claimant to enforce or foreclose any such lien filed in the office of the county clerk shall be commenced within one (1) year of the date the lien was filed or the lien shall be void. For purposes of this section, publication or delivery of a notice of sale under the Uniform Commercial Code shall constitute the commencement of legal action to enforce or foreclose a lien granted under Section 1 of this act. Reasonable attorney fees and legal expenses incurred by the lien claimant to claim, enforce and foreclose the lien granted under Section 1 of this act shall be included in the amount secured by such lien. After five (5) years from the date the lien was filed, the county clerk of the county where the lien is filed shall remove the lien from the records. Added by Laws 2005, c. 213, § 2, eff. Nov. 1, 2005.

§42-111. Persons entitled to liens - Commencement of lien.

Any person, firm or corporation, who shall thresh or combine grain or seed for another shall have a lien for the value of his services upon the grain or seed threshed or combined as provided for in Section 2 of this act, (10989) lien to date from the commencement of threshing.

Laws 1913, c. 38, p. 74, § 1; Laws 1935, p. 224, § 1.

§42-112. Filing statement of lien in office of county clerk - Right to lien as against purchaser.

Any person entitled to a lien under this act shall, within thirty (30) days after the threshing or combining is completed, file in the office of the county clerk of the county in which the grain or seed was grown, or threshing or combining done, a statement in writing, verified by oath, showing the amount, quantity and kind of grain or seed threshed or combined, the price agreed upon for the threshing or combining the same, the name of the person for whom the threshing or combining was done, and a description of the land on which the grain or seed was grown or threshing or combining done; unless the person entitled to the lien shall file such statement within the time aforesaid, he shall be deemed to have waived his rights thereto; provided, that the lien provided for in this act shall not attach to any seed or grain after it has been purchased by a grain dealer and has passed into his possession unless the lien shall have been filed with the county clerk of the county before the seed or grain was purchased by such dealer, or he shall have received written notice from the party entitled to the lien, of his intention to file the same.

Laws 1913, c. 38, p. 74, § 2; Laws 1935, p. 224, § 2.

§42-113. Priority of mortgage liens - Liability of mortgagee consenting in writing.

The lien herein provided for shall be subject to prior mortgage liens, unless the holder thereof has received notice of the intention of the threshing or combining of the grain or seed and consented thereto in writing, after which the holder of such mortgage lien shall become jointly liable with the owner of the grain or seed for the expenses of threshing or combining of the same.

Laws 1913, c. 38, p. 75, § 3; Laws 1935, p. 225, § 3.

§42-114. Statement furnished owner by thresher - Forfeiture on failure to comply.

Any person operating a threshing or combining machine, shall furnish the owner of the crop a statement showing the number of bushels of each kind of grain or seed and/or the number of acres threshed or combined, price per bushel and/or the price per acre and credits due; provided, that any person operating a threshing or

combining machine who fails or refuses to comply with the provisions of this section, shall forfeit his right to the lien herein provided for.

Laws 1913, c. 38, p. 75, § 4; Laws 1935, p. 225, § 4.

§42-115. Enforcement of lien.

The lien created by Section 111 of this title may be enforced in the same manner as provided by law for the enforcement of an agricultural lien pursuant to Article 9 of the Uniform Commercial Code.

Added by Laws 1913, c. 38, p. 75, § 5. Amended by Laws 1994, c. 202, § 3, eff. Sept. 1, 1994; Laws 2000, c. 371, § 171, eff. July 1, 2001.

§42-116. Sale for purpose of paying threshing or combining bill.

The owner, when said seed or grain is not mortgaged, and the owner with the written consent of the mortgagee, when said seed or grain is mortgaged, may sell or dispose of not to exceed twenty percent (20%) of said grain or seed for the purpose of paying the threshing or combining bill.

Laws 1913, c. 38, p. 75, § 6; Laws 1935, p. 225, § 5.

§42-117. Selling in violation of lien.

Any person selling or disposing of property covered by such lien, except as provided in Section 6 of this act, without the written consent of the owner of such lien, shall be guilty of misdemeanor.

Laws 1913, c. 38, p. 76, § 7.

§42-118. Satisfaction of lien - Discharge - Record - Duty of holders.

It shall be the duty of the holder of the lien under this act when same is satisfied to immediately file a notice of discharge thereof with the register of deeds of the county wherein the lien is filed.

Failure to do so shall subject the holder of the lien to a fine of not less than Twenty-five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00).

Laws 1913, c. 38, p. 76, § 8.

§42-119. Right to lien - Persons liable for threshing bills - Enforcement of lien by attachment - Persons against whom valid.

Any person, firm or corporation, threshing or combining grain or seed for another shall have a lien for the value of such service upon such grain or seed so threshed or combined. Further, any person, firm or corporation, holding a lien or mortgage on any unthreshed or un-combined grain or seed, shall be held equally

responsible with the owner for the threshing or combining bill. Provided, however, that the lien or mortgage holder shall be held responsible for the threshing or combining bill only for such grain or seed as they take or receive possession of. Such lien may be enforced by action and attachment as provided by law for the enforcement of a landlord's lien. Such lien shall be a valid and binding lien on such grain and seed against all persons holding or owning such grain with notice of the lien thereon to the extent of the amount due thereon for threshing or combining.
Laws 1921, c. 65, p. 86, § 1; Laws 1935, p. 225, § 6.

§42-120. Statement to be furnished owner or person in charge - False statements as to law.

Any person, firm or corporation, operating a threshing or combining machine within this state shall furnish the owner or person in charge of the crop within forty-eight (48) hours after the threshing or combining is completed, a statement in writing of the number of bushels of grain or seed and/or number of acres so threshed or combined and the price per bushel and/or the price per acre and credits if any. Provided, that any person operating a threshing or combining machine who fails or refuses to comply with this section shall forfeit his right to the lien herein provided. Making false statements willfully as to the provision of this act shall constitute a misdemeanor and any one violating this act shall be subject to punishment by fine of not more than Two Hundred Dollars (\$200.00) , or imprisonment for not more than thirty (30) days in the county jail, or by both such fine and imprisonment.
Laws 1921, c. 65, p. 86, § 2; Laws 1935, p. 226, § 7.

§42-121. Removal of grain or seed with fraudulent intent - Fraudulent appropriation.

Any person, firm or corporation, removing, or causing to be removed, any threshed or combined grain or seed from the premises where same were threshed or combined, with the intent to deprive the owner or operator of the threshing or combining machine, or person interested in same, of any sum or sums of money due for such threshing or combining, or who shall fraudulently appropriate such grain or seed to himself or any other person not entitled thereto for such threshing or combining, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than Fifty Dollars (\$50.00), and not more than Two Hundred Dollars (\$200.00), or not more than thirty (30) days in the county jail, or both such fine and imprisonment.
Laws 1921, c. 65, p. 86, § 3; Laws 1935, p. 226, § 8.

§42-131. Lien provided for work.

Blacksmiths, wheelwrights and horseshoers who perform work and labor for any person, if unpaid for same, shall have an absolute lien, subject to all prior liens, on the product of their labor and upon all wagons, carriages, automobiles, implements and other articles repaired, or horses, or other animals shod by them, for all sums of money due for such work or labor and for any material furnished by them and used in such product, repairs or shoeing. Laws 1913, c. 82, p. 132, § 1.

§42-132. Procedure to perfect lien.

Any person having a lien under this act and desiring to avail himself of its provisions shall, within sixty (60) days after such work or labor is done or performed, or materials furnished, file with the county clerk of the county in which the debtor resides, a just and true account of the demand due, or becoming due, allowing all credits, and containing a description of the property to be charged with said lien, verified by affidavit; provided, that said lien must in either event, be so filed with the county clerk of the county in which the debtor resides, before the title to the property described therein, has passed from the original owner. Laws 1913, c. 82, p. 132, § 2, emerg. eff. March 22, 1913; Laws 1986, c. 135, § 6, emerg. eff. April 17, 1986.

§42-141. Right to lien - Priority - Enforceability against property - Constructive notice.

Any person who shall, under oral or written contract with the owner of any tract or piece of land, perform labor, furnish material or lease or rent equipment used on said land for the erection, alteration or repair of any building, improvement or structure thereon or perform labor in putting up any fixtures, machinery in, or attachment to, any such building, structure or improvements; or who shall plant any tree, vines, plants or hedge in or upon such land; or who shall build, alter, repair or furnish labor, material or lease or rent equipment used on said land for buildings, altering, or repairing any fence or footwalk in or upon said land, or any sidewalk in any street abutting such land, shall have a lien upon the whole of said tract or piece of land, the buildings and appurtenances in an amount inclusive of all sums owed to the person at the time of the lien filing, including, without limitation, applicable profit and overhead costs. If the title to the land is not in the person with whom such contract was made, the lien shall be allowed on the buildings and improvements on such land separately from the real estate. Such liens shall be preferred to all other liens or encumbrances which may attach to or upon such land, buildings or improvements or either of them subsequent to the commencement of such building, the furnishing or putting up of such fixtures or machinery, the planting of such trees, vines, plants or

hedges, the building of such fence, footwalk or sidewalks, or the making of any such repairs or improvements; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found, and compliance with the provisions of this act shall constitute constructive notice of the claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or the first use of the rental equipment on said land.

R.L. 1910, § 3862. Amended by Laws 1919, c. 258, p. 367, § 1; Laws 1923, c. 54, p. 97, § 1; Laws 1977, c. 207, § 6, eff. Oct. 1, 1977; Laws 1980, c. 216, § 1, emerg. eff. May 30, 1980; Laws 2013, c. 78, § 1, eff. Nov. 1, 2013.

§42-141.1. Transfer of records, funds, and powers and duties to county clerk.

On the effective date of this act, the records, funds and powers and duties relating to the filing of mechanics' and materialmen's liens in the office of the court clerk in each county of this state shall be transferred to the office of the county clerk. The county clerk shall thereafter exercise all such powers and duties formerly performed by the court clerk relating to such liens.

Laws 1977, c. 207, § 3, eff. Oct. 1, 1977.

§42-142. Statement to be filed.

Any person claiming a lien as aforesaid shall file in the office of the county clerk of the county in which the land is situated a statement setting forth the amount claimed and the items thereof as nearly as practicable, the names of the owner, the contractor, the claimant, and a legal description of the property subject to the lien, verified by affidavit. Such statement shall be filed within four (4) months after the date upon which material or equipment used on said land was last furnished or labor last performed under contract as aforesaid; and if the claim be for the planting of any trees, vines, plants, or hedge, such statement shall be filed within four (4) months from such planting. Immediately upon the receipt of such statement the county clerk shall enter a record of the same against the tract index and in a book kept for that purpose, to be called the mechanics' lien journal, which shall be ruled off into separate columns, with headings as follows: "When filed", "Name of owner", "Name of claimant", "Amount claimed", "Legal description of property", and "Remarks", and the clerk shall make the proper entry in each column.

R.L. 1910, § 3863; Laws 1977, c. 207, § 7, eff. Oct 1, 1977; Laws 1978, c. 133, § 3, eff. Oct. 1, 1978; Laws 1980, c. 216, § 2, emerg. eff. May 30, 1980.

§42-142.1. Repealed by Laws 2011, c. 23, § 2, eff. Nov. 1, 2011.

§42-142.2. Repealed by Laws 2005, c. 477, § 3, eff. Nov. 1, 2005.

§42-142.3. Repealed by Laws 2011, c. 23, § 2, eff. Nov. 1, 2011.

§42-142.4. Fraudulent statement - Felony.

Any original contractor who falsifies any statement regarding liens on labor or material to any owner of a dwelling, upon conviction, shall be guilty of a felony.

Added by Laws 1980, c. 359, § 4, eff. Oct. 1, 1980. Amended by Laws 1997, c. 133, § 458, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 458 from July 1, 1998, to July 1, 1999.

§42-142.5. Repealed by Laws 2011, c. 23, § 2, eff. Nov. 1, 2011.

§42-142.6. Pre-lien notice - Requirements - Affidavit - Penalties.

A. For the purposes of this section:

1. "Claimant" means a person, other than an original contractor, that is entitled or may be entitled to a lien pursuant to Section 141 of this title; and

2. "Person" means any individual, corporation, partnership, unincorporated association, or other entity.

B. 1. Prior to the filing of a lien statement pursuant to Section 143.1 of this title, but no later than seventy-five (75) days after the last date of supply of material, services, labor, or equipment in which the claimant is entitled or may be entitled to lien rights, the claimant shall send to the last-known address of the original contractor and an owner of the property a pre-lien notice pursuant to the provisions of this section. Provided further, no lien affecting property then occupied as a dwelling by an owner shall be valid unless the pre-lien notice provided in this section was sent within seventy-five (75) days of the last furnishing of materials, services, labor or equipment by the claimant.

2. The provisions of this section shall not be construed to require:

- a. a pre-lien notice with respect to any retainage held by agreement between an owner, contractor, or subcontractor, or
- b. more than one pre-lien notice during the course of a construction project in which material, services, labor, or equipment is furnished.

A pre-lien notice sent in compliance with this section for the supply of material, services, labor, or equipment that entitles or

may entitle a claimant to lien rights shall protect the claimant's lien rights for any subsequent supply of material, services, labor, or equipment furnished during the course of a construction project.

3. Except as otherwise required in paragraph 1 of this subsection, the pre-lien notice requirements shall not apply to a claimant:

- a. whose claim relates to the supply of material, services, labor, or equipment furnished in connection with a residential project. For the purposes of this subparagraph, the term "residential" shall mean a single family or multifamily project of four or fewer dwelling units, none of which are occupied by an owner, or
- b. whose aggregate claim is less than Ten Thousand Dollars (\$10,000.00).

4. The pre-lien notice shall be in writing and shall contain, but not be limited to, the following:

- a. a statement that the notice is a pre-lien notice,
- b. the complete name, address, and telephone number of the claimant, or the claimant's representative,
- c. the date of supply of material, services, labor, or equipment,
- d. a description of the material, services, labor, or equipment,
- e. the name and last-known address of the person who requested that the claimant provide the material, services, labor, or equipment,
- f. the address, legal description, or location of the property to which the material, services, labor, or equipment has been supplied,
- g. a statement of the dollar amount of the material, services, labor, or equipment furnished or to be furnished, and
- h. the signature of the claimant, or the claimant's representative.

5. A rebuttable presumption of compliance with paragraph 1 of this subsection shall be created if the pre-lien notice is sent as follows:

- a. hand delivery supported by a delivery confirmation receipt,
- b. automated transaction pursuant to Section 15-115 of Title 12A of the Oklahoma Statutes, or
- c. certified mail, return receipt requested. Notice by certified mail, return receipt requested, shall be effective on the date mailed.

6. The claimant may request in writing, the request to be sent in the manner as provided in paragraph 5 of this subsection, that

the original contractor provide to the claimant the name and last-known address of an owner of the property. Failure of the original contractor to provide the claimant with the information requested within five (5) days from the date of receipt of the request shall render the pre-lien notice requirement to the owner of the property unenforceable.

C. At the time of the filing of the lien statement, the claimant shall furnish to the county clerk a notarized affidavit verifying compliance with the pre-lien notice requirements of this section. Any claimant who falsifies the affidavit shall be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

D. Failure of the claimant to comply with the pre-lien notice requirements of this section shall render that portion of the lien claim for which no notice was sent invalid and unenforceable. Added by Laws 2001, c. 21, § 1, eff. July 1, 2001. Amended by Laws 2011, c. 23, § 1, eff. Nov. 1, 2011.

§42-143. Lien by or through subcontractor.

Any person who shall furnish any such material or lease or rent equipment used on said land or perform such labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor, may obtain a lien upon such land, or improvements, or both, from the same time, in the same manner, and to the same extent as the original contractor, for the amount due for such material, equipment and labor, as well as any applicable profit and overhead costs due to the person; and any artisan or day laborer in the employ of, and any person furnishing material or equipment used on said land to, such subcontractor may obtain a lien upon such land, or improvements, or both, for the same time, in the same manner, and to the same extent as the subcontractor, for the amount due for such material, equipment used on said land and labor, as well as any applicable profit and overhead costs due to the person, by filing with the county clerk of the county in which the land is situated, within ninety (90) days after the date upon which material or equipment used on said land was last furnished or labor last performed under such subcontract, a statement, verified by affidavit, setting forth the amount due from the contractor to the claimant, and the items thereof, as nearly as practicable, the name of the owner, the name of the contractor, the name of the claimant, and a legal description of the property upon which a lien is claimed. Immediately upon the filing of such statement the county clerk shall enter a record of the same against the tract index and in the journal provided for in the preceding section, and in the manner therein specified. Provided further, that the owner of any

land affected by such lien shall not thereby become liable to any claimant for any greater amount than he contracted to pay the original contractor. The risk of all payments made to the original contractor shall be upon such owner until the expiration of the ninety (90) days herein specified, and no owner shall be liable to an action by such contractor until the expiration of said ninety (90) days, and such owner may pay such subcontractor the amount due him from such contractor for such labor, equipment used on said land and material, and the amount so paid shall be held and deemed a payment of said amount to the original contractor.

R.L. 1910, § 3864. Amended by Laws 1957, p. 417, § 1, emerg. eff. May 29, 1957; Laws 1977, c. 207, § 8, eff. Oct. 1, 1977; Laws 1978, c. 133, § 4, eff. Oct. 1, 1978; Laws 1980, c. 216, § 3, emerg. eff. May 30, 1980; Laws 2013, c. 78, § 2, eff. Nov. 1, 2013.

§42-143.1. Notice - Filing of lien statement - Fees.

A. Within five (5) business days after the date of the filing of the lien statement provided for in Sections 142 and 143 of this title, a notice of the lien shall be mailed by certified mail, return receipt requested, to the owner of the property on which the lien attaches. The claimant shall furnish to the county clerk the last-known mailing address of the person or persons against whom the claim is made and the owner of the property. The notice shall be mailed by the county clerk. The fee for preparing and mailing the notice of mechanics' and materialmen's lien and costs for each additional page or exhibit shall be as provided for in Section 32 of Title 28 of the Oklahoma Statutes and shall be paid by the person filing the lien. The fee shall be deposited into the County Clerk's Lien Fee Account, created pursuant to the provisions of Section 265 of Title 19 of the Oklahoma Statutes.

B. The notice shall contain the date of filing; the name and address of the following: The person claiming the lien; the person against whom the claim is made and the owner of the property; a legal description of the property; and the amount claimed. Provided that, if with due diligence the person against whom the claim is made or the owner of the property cannot be found, the claimant after filing an affidavit setting forth such facts may, within sixty (60) days of the filing of the lien statement, serve a copy of the notice upon the occupant of the property or the occupant of the improvements, as the case may be, in a like manner as is provided for service upon the owner thereof, or, if the same be unoccupied, the claimant may post a copy in a conspicuous place upon the property or any improvements thereon.

Added by Laws 1977, c. 207, § 9, eff. Oct. 1, 1977. Amended by Laws 1979, c. 251, § 1, emerg. eff. June 5, 1979; Laws 1983, c. 51, § 1, emerg. eff. April 26, 1983; Laws 1984, c. 268, § 5, eff. Nov. 1, 1984; Laws 1985, c. 166, § 4, operative July 1, 1985; Laws 1989, c.

366, § 2, eff. Nov. 1, 1989; Laws 2000, c. 363, § 23, emerg. eff. June 6, 2000; Laws 2001, c. 21, § 2, emerg. eff. April 3, 2001; Laws 2010, c. 148, § 1, eff. Nov. 1, 2010.

§42-143.2. Repealed by Laws 2005, c. 31, § 1, eff. Nov. 1, 2005.

§42-143.3. Leased or rented equipment - Exemption from act.

The provisions of this act as relating to leased or rented equipment shall not apply to real property qualified for homestead exemption or real property used for agricultural purposes or real property used for the production of or growing of agricultural products.

Laws 1980, c. 216, § 5, emerg. eff. May 30, 1980; Laws 1984, c. 9, § 1, emerg. eff. March 12, 1984.

§42-143.4. Leased or rented equipment - Property used for production of oil or gas.

The provisions of this act relating to leased or rented equipment shall not apply to such equipment used for the development or production of oil or gas, except insofar as is specifically allowed by Section 144 of Title 42.

Laws 1980, c. 216, § 6, emerg. eff. May 30, 1980.

§42-144. Oil and gas well liens.

Any person, corporation, or copartnership who shall, under contract, expressed or implied, with the owner of any leasehold for oil and gas purposes, or the owner of any gas pipeline or oil pipeline, or with the trustee or agent of such owner, perform labor or services, including written contracts for the services of a geologist or petroleum engineer, or furnish material, machinery, and oil well supplies used in the digging, drilling, torpedoing, completing, operating, or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing, or repairing of any gas well, or perform any labor upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, shall have a lien upon the whole of such leasehold or oil pipeline, or gas pipeline, or lease for oil and gas purposes, the buildings and appurtenances, the proceeds from the sale of oil or gas produced therefrom inuring to the working interest, exempting, however, any valid, bona fide reservations of oil or gas payments or overriding royalty interests executed in good faith and payable out of such working interest, and upon the material and supplies so furnished, and upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well,

and upon the oil or gas well for which they were furnished, and upon all the other oil or gas well fixtures and appliances used in the operating for oil and gas purposes upon the leasehold for which said material and supplies were furnished or labor or services performed. Such lien shall be preferred to all other liens or encumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil or gas pipeline, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found; and compliance with the provisions of this article shall constitute constructive notice of the lien claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or services.

R.L. 1910, § 3865; Laws 1919, c. 258, p. 367, § 2; Laws 1927, c. 42, p. 64, § 1; Laws 1963, c. 226, § 1.

§42-144.1. Effectiveness of lien against purchaser - Delivery of copy of statement of lien.

No lien claimed by virtue of this act, insofar as it may extend to the proceeds from the sale of oil or gas produced from such lease, shall be effective against any purchaser of such oil or gas until a copy of the statement of lien claim required to be filed by the provisions of this chapter has been delivered to such purchaser by registered or certified mail.

Laws 1963, c. 226, § 2.

§42-144.2. Trust funds for payment of lienable claims.

A. Except as provided by subsection D of this section, the amount payable under any oil and gas well drilling contract, reworking contract, operating agreement, or monies payable as a condition of participation in the drilling of an oil and gas well under the terms of a pooling order issued by the Oklahoma Corporation Commission shall, upon receipt by any oil and gas well operator, contractor or subcontractor, be held by such operator as trust funds for the payment of all lienable claims due and owing by such operator, contractor or subcontractor by reason of such drilling contract, reworking contract, operating agreement, or force pooling order.

B. The trust funds created under subsection A of this section shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all

lienable claims due and owing or to become due and owing shall have been paid.

C. The existence of such trust funds shall not prohibit the filing or enforcement of any labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall the filing of such a lien release the holder of such funds from the obligations created under this section.

D. The provisions of this section shall not be applicable or affect payments owed to royalty owners by the operator of an oil or gas well and shall not affect or alter the terms or provisions of Section 87.1 of Title 52 of the Oklahoma Statutes.

Added by Laws 1986, c. 176, § 11, emerg. eff. May 15, 1986. Amended by Laws 1997, c. 133, § 459, eff. July 1, 1999; Laws 2002, c. 460, § 30, eff. Nov. 1, 2002.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 459 from July 1, 1998, to July 1, 1999.

§42-145. Oil and gas well lien by or through subcontractor.

Any person, copartnership or corporation who shall furnish such machinery or supplies to a subcontractor under a contractor, or any person who shall perform such labor under a subcontract with a contractor, or who, as an artisan or day laborer in the employ of such contractor, shall perform any such labor, may obtain a lien upon said leasehold for oil and gas purposes or any gas pipeline or any oil pipeline from the same tank and in the same manner and to the same extent as the original contractor for the amount due him for such labor, as provided in the preceding section.

R.L. 1910, § 3866.

§42-146. Enforcement of lien on oil and gas wells.

The liens created by Sections 144 and 145 of this title shall be enforced pursuant to the provisions of Sections 171 through 178 of this title. Notice of the lien shall be given and the materialman's statement or the lien of any laborer shall be filed, in the same manner as is provided for in Sections 141 through 143.4 of this title, except that Section 142.6 of this title shall not apply to liens created pursuant to Sections 144 and 145 of this title and the statement required to be filed in the office of the county clerk pursuant to Section 143 of this title as to liens created pursuant to Sections 144 and 145 of this title shall be filed within one hundred eighty (180) days after the date upon which material, machinery or supplies were last furnished or labor or services last performed under the relevant contract or subcontract, whichever the case may be. A lien created pursuant to Sections 144 and 145 of this title shall affect only the oil and gas leasehold estate and shall not constitute a lien against or otherwise affect any other interest in the real property involved, except if the owner of an

oil, gas or other mineral interest therein shall also own a working interest in a well located thereon, such lien shall attach to said working interest.

R.L.1910, § 3867. Amended by Laws 1983, c. 57, § 1, eff. Nov. 1, 1983; Laws 1985, c. 136, § 2, eff. Nov. 1, 1985; Laws 1990, c. 99, § 1, eff. Sept. 1, 1990; Laws 2002, c. 460, § 31, eff. Nov. 1, 2002.

§42-147. Repealed by Laws 1982, c. 332, § 3.

§42-147.1. Discharge of lien.

Any property owner or other interested party, including but not limited to mortgagees, contractors, subcontractors and others against whom a lien claim is filed under the provisions of the law relating to mechanics' and materialmen's liens, may at any time discharge the lien by depositing with the county clerk in whose office the lien claim has been filed either: An amount of money equal to one hundred twenty-five percent (125%) of the lien claim amount; or a corporate surety bond with a penal amount equal to one hundred twenty-five percent (125%) of the lien claim amount. Within three (3) business days after the deposit of money or bond is made, the county clerk shall serve upon the lien claimant, at the address shown on the lien claim, written notice setting forth: The number of the lien claim; the name of the lien claimant; the name of the property owner; the name of the alleged debtor, if someone other than the property owner; the property description shown on the lien claim; and the amount of cash deposited or, if a bond is filed, the names of the principal and surety and the bond penalty. The party seeking to discharge the lien shall prepare and deliver the notice to the county clerk and pay a fee in accordance with Section 32 of Title 28 of the Oklahoma Statutes. An abbreviated notice may be used if the same refers to and encloses a copy of the lien claim and either a copy of the cash receipt issued by the county clerk or a copy of the bond with the clerk's filing stamp thereon. The notice shall be mailed by registered or certified mail at the option of the county clerk.

If cash is deposited, the county clerk shall immediately show the lien released of record. If a bond is deposited, the lien claimant shall have ten (10) days after the notice is mailed within which to file a written objection with the county clerk. If a written objection is not timely filed the county clerk shall immediately show the lien released of record. If an objection is timely made, the county clerk shall set a hearing within ten (10) days thereafter and notify by ordinary mail both the lien claimant and the party making the deposit of the date and time thereof. The only grounds for objection shall be that: The surety is not authorized to transact business in this state; the bond is not properly signed; the penal amount is less than one hundred twenty-

five percent (125%) of the claim; the power of attorney of the surety's attorney-in-fact does not authorize the execution; there is no power of attorney attached if the bond is executed by anyone other than the surety's president and attested by its secretary; or a cease and desist order has been issued against the surety either by the Insurance Commissioner or a court of competent jurisdiction. Within two (2) business days following the hearing the county clerk shall either sustain or overrule the objections and notify the parties of the county clerk's ruling by ordinary mail. If the objections are sustained, the ruling of the county clerk shall be conclusive for lien release purposes unless appealed within ten (10) days to the district court. If the objections are overruled, the county clerk shall immediately show the lien released of record.

The bond shall: Name the lien claimant as obligee and the party seeking the release as principal; be executed by both the principal and the surety; have a proper power of attorney attached if executed by an attorney-in-fact; be executed by a corporate surety authorized to transact business in this state; and be conditioned that the principal and surety will pay the full amount of the claim as established in any appropriate court proceeding, plus any court costs and attorney fees awarded the lien claimant, but in no event shall the liability of the principal or surety under the bond exceed the bond penalty. The preceding clause shall not limit the common law liability of the party who created the indebtedness upon which the lien claim is based. The conditions of any bond filed pursuant to this section shall be deemed to comply with the requirements hereof, regardless of the language or limitations set forth therein, if both the principal and surety intend that the bond be filed to secure a lien release under this section.

The cash deposit or bond, as the case may be, shall stand in lieu of the released lien, and the lien claimant must proceed against the substituted security in the same time and manner as is required for foreclosure of a lien claim. The cash deposit or bond shall stand liable for such principal, interest, court costs and attorney fees to the extent they could be awarded in a lien foreclosure proceeding.

The only proper parties to an action against the substituted security are: The party making the cash deposit; the bond principal and surety; the party primarily liable for the indebtedness giving rise to the lien claim; and anyone else who may be liable to the lien claimant for the same indebtedness. The party making the cash deposit and the bond principal and surety are necessary parties to an action against the substituted security, and by making a deposit or filing a bond the parties subject themselves to personal jurisdiction in the court where the action is properly filed and may be served with process as in other cases.

If the lien claimant fails to timely file a foreclosure action, upon application of the party making the deposit or filing the bond and the payment of a fee of Ten Dollars (\$10.00), the county clerk shall return the cash to the party making the deposit or appropriately note on the bond that the same has been released. The clerk shall not incur liability to any lien claimant for an inadvertent release of cash or bond. At the end of five (5) years and after the county clerk has attempted written notification to the lien claimant at the address shown on the lien claim, if no foreclosure has been commenced by the lien claimant or such money has not been withdrawn upon application of the depositing party, the cash deposit plus all accrued interest shall be forfeited to the county general fund.

Nothing contained in this section shall preclude the lien claimant and other interested parties from entering into agreements for the substitution of a different form of security in lieu of the lien claim.

The county clerk shall invest the deposited cash in the manner provided for county treasurers in Section 348.1 of Title 62 of the Oklahoma Statutes. Any interest earned thereon shall become a part of the deposit and be either returned to the party making the deposit, if no action is filed, or paid in accordance with any final judgment rendered by the court in the action against the substituted security. If a district court judgment adverse to the depositing party is entered, in setting the amount of supersedeas bond the court shall take into consideration the existing cash deposit or bond.

Added by Laws 1982, c. 332, § 1, eff. Oct. 1, 1982. Amended by Laws 2003, c. 184, § 4, eff. Nov. 1, 2003; Laws 2007, c. 100, § 6, eff. Nov. 1, 2007; Laws 2019, c. 328, § 1, eff. Nov. 1, 2019.

NOTE: Laws 2007, c. 132, § 7 repealed by Laws 2008, c. 3, § 23, emerg. eff. Feb. 28, 2008.

§42-148. Lien on mining property for work thereon.

All miners and other employees engaged in the work of developing and opening up coal mines, sinking of shafts, or construction of slopes or drifts, the driving of entries, mining in coal, and every mechanic, builder, artisan, workman, laborer or other person who performs any work or labor in and about such mines, shall have as security for such work and labor performed, a lien therefor upon the buildings, machinery, equipment, inside or outside, income, franchises, leases or subleases and all other appurtenances and all property of the person, owner, agent, firm or corporation owning, constructing or operating such mine or mines, and all property in their possession or under their control, or permitted by the owner to be used in the construction or operation thereof, superior or paramount, whether prior in time or not, to that of all persons

interested in such mines as managers, lessees, sublessees, operators, mortgagees, trustees and beneficiaries under trust, or owners.

Laws 1925, c. 108, p. 156, § 1; Laws 1939, p. 344, § 1.

§42-149. Suit within one year.

The lien provided for in the preceding section shall not be effective unless suit shall be brought within one (1) year after it accrued.

Laws 1925, c. 108, p. 156, § 2.

§42-150. Filing statement.

Any person claiming a lien as aforesaid shall file in the office of the county clerk of the county in which the land or property is situated, a statement setting forth the amount claimed and the items thereof, as nearly as practicable, the names of the managers, lessees, sublessees, operators, mortgagees, trustees and beneficiaries under trusts, or owners, the contractor, the claimant and the legal description of the property, subject to such lien and verified by affidavit. Such statement shall be filed within forty-five (45) days after the date upon which such labor was last performed. Upon receipt of such lien statement, the clerk shall enter same against the tract index and in a record kept for that purpose, to be called the mechanics' lien journal. Except as provided herein, the provisions of Sections 92 through 96 and 141 through 147 of this title shall apply with reference to the liens herein created.

Laws 1925, c. 108, p. 156, § 3; Laws 1977, c. 207, § 11, eff. Oct. 1, 1977; Laws 1978, c. 133, § 5, eff. Oct. 1, 1978.

§42-151. Lightning rods not included herein.

The erecting and constructing of a lightning rod or rods on any buildings shall not be considered such an improvement fixture or attachment, as to come under the provisions of this chapter.

R.L. 1910, § 3880.

§42-152. Proceeds of building or remodeling contracts, mortgages or warranty deeds as trust funds for payment of lienable claims.

(1) The amount payable under any building or remodeling contract shall, upon receipt by any contractor or subcontractor, be held as trust funds for the payment of all lienable claims due and owing or to become due and owing by such contractors or subcontractors by reason of such building or remodeling contract.

(2) The monies received under any mortgage given for the purpose of construction or remodeling any structure shall upon receipt by the mortgagor be held as trust funds for the payment of all valid

lienable claims due and owing or to become due and owing by such mortgagor by reason of such building or remodeling contract.

(3) The amount received by any vendor of real property under a warranty deed shall, upon receipt by the vendor, be held as trust funds for the payment of all valid lienable claims due and owing or to become due and owing by such vendor or his predecessors in title by reason of any improvements made upon such property within four (4) months prior to the delivery of said deed.

Laws 1965, c. 58, § 1; Laws 1968, c. 174, § 1, emerg. eff. April 15, 1968.

§42-153. Payment of lienable claims.

(1) The trust funds created under Section 152 of this title shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

(2) If the party receiving any money under Section 152 of this title is an entity having the characteristics of limited liability pursuant to law, such entity and the natural persons having the legally enforceable duty for the management of the entity shall be liable for the proper application of such trust funds and subject to punishment under Section 1451 of Title 21 of the Oklahoma Statutes. For purposes of this section, the natural persons subject to punishment shall be the managing officers of a corporation and the managers of a limited liability company.

(3) The existence of such trust funds shall not prohibit the filing or enforcement of a labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall the filing of such a lien release the holder of such funds from the obligations created under this section or Section 152 of this title. Added by Laws 1965, c. 58, § 2. Amended by Laws 1968, c. 174, § 2, emerg. eff. April 15, 1968; Laws 1983, c. 111, § 1, eff. Nov. 1, 1983; Laws 1985, c. 191, § 1, emerg. eff. June 24, 1985; Laws 1997, c. 133, § 460, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 334, eff. July 1, 1999; Laws 2000, c. 6, § 9, emerg. eff. March 20, 2000; Laws 2002, c. 460, § 32, eff. Nov. 1, 2002.

NOTE: Laws 1999, c. 212, § 5 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 460 from July 1, 1998, to July 1, 1999.

§42-154. Corporations - Execution, attestation, seal or acknowledgment of lien statement - Release of lien.

Any lien statement authorized by the provisions of Sections 141 through 164 of Title 42 of the Oklahoma Statutes when executed on behalf of a corporation may be signed and verified by any officer or

agent of said corporation without the necessity of attestation, seal, or acknowledgment and any release of such lien when executed on behalf of a corporation may be signed by any officer or agent of such corporation without the necessity of attestation, seal, or acknowledgment.

With respect to the execution and release of lien statements in accordance with this section the provisions of Sections 15, 93, 94 and 95 of Title 16 of the Oklahoma Statutes shall not apply. Added by Laws 1984, c. 257, § 1, emerg. eff. May 30, 1984.

§42-161. Right to lien against railroads.

Every mechanic, builder, artisan, workman, laborer, or other person, who shall do or perform any work or labor upon, or furnish any materials, machinery, fixtures or other thing towards the equipment, or to facilitate the operation of any railroad, shall have a lien therefor upon the roadbed, buildings, equipments, income, franchises, and all other appurtenances of said railroad, superior and paramount, whether prior in time or not, to that of all persons interested in said railroad as managers, lessees, mortgagees, trustees beneficiaries under trusts or owners.

R.L. 1910, § 3868.

§42-162. Limitations.

The lien mentioned in the preceding section shall not be effectual unless suit shall be brought upon the claim within one (1) year after it accrued.

R.L. 1910, § 3869.

§42-163. How enforced.

The said lien shall be mentioned in the judgment rendered for the claimant in an ordinary suit for the claim, and may be enforced by ordinary levy and sale under final or other process at law or equity.

R.L. 1910, § 3870.

§42-164. Notice.

A notice of ten (10) days shall be given to the railroad of the existence of a claim or the intended lien which is contemplated under this article.

R.L. 1910, § 3871.

§42-171. Assignment of liens.

All claims for liens and rights of action to recover therefor hereunder shall be assignable so as to vest in the assignee all rights and remedies herein given, subject to all defenses thereto that might be made if such assignment had not been made. Where a statement has been filed and recorded as provided in Section 142 of

this title, such assignment may be made by an entry, on the same page of the mechanics' lien journal containing the record of the lien, signed by the claimant or his lawful representative, and attested by the county clerk; or such assignment may be made by a separate instrument in writing.

R.L. 1910, § 3872; Laws 1977, c. 207, § 12, eff. Oct. 1, 1977.

§42-172. Enforcement by civil actions - Limitations - Practice, pleading and proceeding - Amendment of lien statement.

Any lien provided for by this chapter may be enforced by civil action in the district court of the county in which the land is situated, and such action shall be brought within one (1) year from the time of the filing of said lien with the county clerk. The practice, pleading and proceedings in such action shall conform to the rules prescribed by the code of civil procedure as far as the same may be applicable; and in case of action brought, any lien statement may be amended by leave of court in furtherance of justice as pleadings may be in any matter, except as to the amount claimed. R.L. 1910, § 3873; Laws 1935, p. 226, § 1; Laws 1977, c. 207, § 13, eff. Oct. 1, 1977.

§42-173. Parties.

In such actions all persons whose liens are filed as herein provided shall be made parties, and issues shall be made and trials had as in other cases. Where such action is brought by a subcontractor, or other person not the original contractor, such original contractor shall be made a party defendant, and shall at his own expense defend against the claim of every subcontractor, or other person claiming a lien under this chapter, and if he fails to make such defense the owner may make the same at the expense of such contractor; and until all such claims, costs and expenses are finally adjudicated, and defeated or satisfied, the owner shall be entitled to retain from the contractor the amount thereof, and such costs and expenses as he may be required to pay: Provided, that if the sheriff of the county in which such action is pending shall make return that he is unable to find such original contractor, the court may proceed to adjudicate the liens upon the land and render judgment to enforce the same with costs.

R.L. 1910, § 3874; Laws 1977, c. 207, § 14, eff. Oct. 1, 1977.

§42-174. Consolidation of actions and stay of trial.

If several actions brought to enforce the liens herein provided for are pending at the time, the court may order them to be consolidated; and in any action brought to enforce a lien, if the building or other improvement is still in course of construction, the court, on application of any party engaged in furnishing labor or materials for such building or improvement, may stay the trial

thereof for a reasonable time to permit the filing of a lien statement by such party as herein provided.
R.L. 1910, § 3875.

§42-175. Sale of property after judgment.

In all cases where judgment may be rendered in favor of any person or persons to enforce a lien under the provisions of this chapter, the real estate or other property shall be ordered to be sold as in other cases of sales of real estate, such sales to be without prejudice to the rights of any prior encumbrancer, owner or other person not a party to the action.
R.L. 1910, § 3876.

§42-176. Attorney's fees.

In an action brought to enforce any lien the party for whom judgment is rendered shall be entitled to recover a reasonable attorney's fee, to be fixed by the court, which shall be taxed as costs in the action.
R.L. 1910, § 3877.

§42-177. Suit by owner to determine lien and cancellation of lien on docket.

If any lien shall be filed under the provisions of this chapter, and no action to foreclose such lien shall have been commenced, the owner of the land may file his petition in the district court of the county in which said land is situated, making said lien claimants defendants therein, and praying for an adjudication of said lien so claimed, and if such lien claimant shall fail to establish his lien, the court may tax against said claimant the whole, or such portion of the costs of such action as may be just. Provided, that if no action to foreclose or adjudicate any lien filed under the provisions of this chapter shall be instituted within one (1) year from the filing of said lien, the lien is canceled by limitation of law. If a lien is canceled by limitation of law, the owner of the land may file an affidavit attesting to the cancellation with the county clerk of the county in which the land is located. Upon receipt of the affidavit, the county clerk shall attach the affidavit to the original lien document in the lien docket file and enter a notation of the filing in the mechanics' lien journal. The affidavit shall be on a form prescribed by the Office of the Administrative Director of the Courts.

R.L. 1910, § 3878. Amended by Laws 1977, c. 207, § 15, eff. Oct. 1, 1977; Laws 1995, c. 338, § 21, eff. Nov. 1, 1995.

§42-178. Proceeds insufficient.

If the proceeds of the sale be insufficient to pay all the claimants, then the court shall order them to be paid in proportion to the amount due each.

R.L. 1910, § 3879.

§42-180. Liens against manufactured homes - Repossession - Notice.

A. Unless the owner of the real property on which a manufactured home is located has a possessory lien with priority over a creditor having a perfected security interest or a lien recorded on the document of title issued on the manufactured home, it shall be unlawful for the owner of the real property to refuse to allow the secured creditor to repossess and move the manufactured home. If the owner of the real property on which a manufactured home is located has a possessory lien pursuant to Section 91 or Section 91A of this title, and a creditor with a perfected security interest in that manufactured home pays to the owner of real property that portion of the possessory lien having priority over the creditor, the owner of the real property must allow the creditor to repossess and move the manufactured home. If the owner of the real property refuses to allow the creditor to repossess and move the manufactured home as required by this subsection, that owner of real property shall be liable to the creditor for each day that the owner of the real property unlawfully maintains possession of the manufactured home at a daily rate equal to one-thirtieth (1/30) of the monthly rental or storage payment last paid by the consumer to the owner of the real property, or if no payment has been made, the payment required pursuant to the contract between the secured creditor and the consumer. The prevailing party shall be entitled to reasonable attorney fees and costs.

B. Upon the bankruptcy of a consumer owning a manufactured home located on real property owned by another person and subject to rental or storage charges, the secured creditor shall, within five (5) days after receipt of notice of the bankruptcy, give notice to the owner of the real estate by certified mail, return receipt requested, if the location of the manufactured home is known. If the secured creditor fails to give required notice to the owner of the real estate, the creditor will be liable for post-bankruptcy-filing storage or rental charges not paid by the trustee in bankruptcy.

Added by Laws 1988, c. 226, § 1, eff. Nov. 1, 1988. Amended by Laws 1989, c. 366, § 1, eff. Nov. 1, 1989; Laws 2003, c. 409, § 2, eff. Nov. 1, 2003; Laws 2006, c. 77, § 3, eff. July 1, 2006; Laws 2006, c. 247, § 4.

§42-191. Short title.

Sections 1 through 9 of this act shall be known and may be cited as the "Self-Service Storage Facility Lien Act".

Added by Laws 1998, c. 306, § 1, eff. Nov. 1, 1998.

§42-192. Definitions.

As used in the Self-Service Storage Facility Lien Act, unless the context otherwise requires:

1. "Default" means the failure by the occupant to perform in a timely manner any obligation or duty set forth in this act or the rental agreement;

2. "Last-known address" means that address or electronic mail address provided by the occupant in the latest rental agreement or the address or electronic mail address provided by the occupant in a subsequent written notice of a change of address;

3. "Occupant" means a person, or his sublessee, successor, or assign, entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others;

4. "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any other person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement;

5. "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, merchandise, and household items;

6. "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy at a self-service storage facility and which contains a notice stating that all articles stored under the terms of such agreement will be sold or otherwise disposed of if no payment has been received for a continuous thirty-day period;

7. "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property;

8. "Electronic mail" means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks;

9. "Sale" means a sale made after public notice and includes but is not limited to a sale at the self-service storage facility or a sale conducted online at a publicly accessible website; and

10. "Verified mail" means any method of mailing that is offered by the United States Postal Service or private delivery service that provides evidence of mailing.

Added by Laws 1998, c. 306, § 2, eff. Nov. 1, 1998. Amended by Laws 2018, c. 160, § 1, eff. Nov. 1, 2018.

§42-193. Applicability of Article 7 of Commercial Code.

If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to the provisions of Article 7 of Title 12A of the Oklahoma Statutes, and the provisions of this act are not applicable.

Added by Laws 1998, c. 306, § 3, eff. Nov. 1, 1998.

§42-194. Duty of care - Disclosure.

A. The duty of care an owner must exercise with respect to personal property located in a self-service storage facility is ordinary care only.

B. Each owner of a self-service storage facility shall provide a disclosure in the rental agreement, in conspicuous terms and in a conspicuous manner, that the occupant has a duty to safeguard the personal property located in a self-service storage facility from losses and that the owner has no legal obligation to provide insurance to protect the personal property from loss.

C. No owner of a self-service storage facility shall be liable for loss sustained by an occupant as a result of theft committed by a third party provided that ordinary care was exercised.

D. If the rental agreement contains a limit on the value of property stored in an occupant's space, such limit shall be deemed to be the maximum value of the stored property and the maximum liability of the owner for any claim for loss of or damage to stored property.

Added by Laws 1998, c. 306, § 4, eff. Nov. 1, 1998. Amended by Laws 2018, c. 160, § 2, eff. Nov. 1, 2018.

§42-195. Default by occupant - Prevention of access - Liability for damage to property.

A. An owner shall have the right to take such action as may be required to prevent an occupant who has committed an act of default pursuant to the rental agreement from gaining access to the self-service storage facility or any specific location at which personal property is stored by an occupant. The owner of a self-service storage facility shall not be liable for damages sustained by an occupant, if any, alleged to result from action taken by the owner to prevent access to the self-service storage facility after the occupant has committed an act of default pursuant to the rental agreement.

B. If an occupant damages any real or personal property of the owner in order to attempt to regain access to a self-service storage facility, or any component of a self-service storage facility, including but not limited to the destruction of a padlock or similar device, in addition to criminal liability, the occupant shall be

liable for the damage caused and the owner of the self-service storage facility may add the damages or expenses incurred as a result of the action taken by the occupant to the amount of unpaid storage charges for purposes of enforcing the lien authorized by Section 6 of this act.

Added by Laws 1998, c. 306, § 5, eff. Nov. 1, 1998.

§42-196. Lien - Date of attachment - Disclosure of other lienholders.

A. Where a rental agreement, as defined in Section 192 of this title, is entered into between the owner and the occupant, the owner of a self-service storage facility and his heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at the self-service storage facility for rent, late fees, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to the Self-Service Storage Facility Lien Act.

B. The lien attaches as of the date the personal property is brought to the self-service storage facility and continues so long as the owner retains possession and until the default is corrected, or a sale is conducted, or the property is otherwise disposed of to satisfy the lien.

C. A facility or unit owner may charge a tenant a reasonable late fee for each period that the tenant does not pay rent due under the rental agreement. The amount of the late fee and the conditions for imposing such a fee shall be stated in the rental agreement or in an addendum to the agreement. For purposes of this subsection, a late fee not to exceed the greater of Twenty Dollars (\$20.00) or twenty percent (20%) of unpaid rent is considered reasonable.

D. The rental agreement shall contain a provision directing the occupant to disclose any lienholders with an interest in property that is or will be stored in a self-service storage facility.

E. If the personal property is a vehicle, watercraft or trailer and rent and other charges remain unpaid for sixty (60) days, the facility owner may have the vehicle, watercraft or trailer towed from the self-service storage facility. If the vehicle, watercraft or trailer is towed from the self-service storage facility, the facility owner shall not be liable for the vehicle, watercraft or trailer or for any damages to the vehicle, watercraft or trailer once the towing company takes possession of the property.

Added by Laws 1998, c. 306, § 6, eff. Nov. 1, 1998. Amended by Laws 2018, c. 160, § 3, eff. Nov. 1, 2018.

§42-197. Priority - Enforcement - Notice - Sale of property.

A. An owner's lien as provided for a claim which has become due may be satisfied as provided by this section. The possessory lien

authorized by this section shall be prior to any previously perfected security interest in the personal property pursuant to Section 1-9-333 of Title 12A of the Oklahoma Statutes.

B. No enforcement action shall be taken by the owner until the occupant has been in default continuously for a period of thirty (30) days. As used in this subsection, "enforcement action" shall not include actions of the owner taken pursuant to Section 195 of this title.

C. After the occupant has been in default continuously for a period of thirty (30) days, the owner may begin enforcement action if the occupant has been notified in writing. Said notice shall be delivered in person or sent by verified mail to the last-known address of the occupant or, if mutually agreed between the owner and occupant in the rental agreement or in an addendum to the rental agreement, by electronic mail. Any lienholder with an interest in the property to be sold or otherwise disposed of, of whom the owner has actual knowledge, shall be included in the notice process via verified mail. If the occupant provides his or her electronic mail address for purposes of receiving notices pursuant to this subsection, the rental agreement or addendum to the rental agreement must provide space for the occupant to give the name and electronic mail address of another person to whom the notice may be sent. Failure of an occupant to give the name and electronic mail address of another person shall not affect an owner's rights or remedies under this title or under any other provision of law. The other person, if any, does not have any rights to access the occupant's space or to the personal property stored in the occupant's space unless expressly stated otherwise in the rental agreement or addendum to the rental agreement.

D. The notice shall include:

1. An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

2. A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify such property, except that any container including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner which deters immediate access to its contents may be described as such without describing its contents;

3. A notification of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement, which notification shall provide the name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to such notification;

4. A demand for payment within a specified time not less than fifteen (15) days after delivery of the notice; and

5. A conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.

E. Any notice made pursuant to this section by verified mail shall be presumed delivered when it is deposited with the United States Postal Service or a private delivery service and properly addressed with postage prepaid. Any electronic mail notice made pursuant to this section shall be presumed delivered when it is sent and properly addressed and does not return as unavailable. If an electronic mail is returned as unavailable, notice shall be given by verified mail.

F. After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once in a newspaper of general circulation in the county where the self-service storage facility is located.

G. The advertisement prescribed by subsection F of this section shall include:

1. A brief and general description of the personal property reasonably adequate to permit its identification as provided in paragraph 2 of subsection D of this section, the address of the self-service storage facility and the number, if any, of the space where the personal property is located, and the name of the occupant and his last-known address; or

2. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than fifteen (15) days after the publication.

If there is no newspaper of general circulation in the county where the self-service storage facility is located, the advertisement shall be posted at least ten (10) days before the date of the sale or other disposition in not less than six conspicuous places in the neighborhood where the self-service storage facility is located and published one time in a legal newspaper in an adjoining county of this state, which newspaper has general circulation in the county or political subdivision in which such notice is required.

H. Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

I. Any sale or other disposition of the personal property shall be held online, at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

J. Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of

such payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to such personal property.

K. A purchaser in good faith of the personal property sold to satisfy a lien as provided in this act takes the property free of any rights of persons against whom the lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner with the requirements of this section.

L. In the event of a sale under this section, the owner may satisfy his lien from the proceeds of the sale.

M. If the proceeds from sale of the property are less than the amount required to pay the obligation secured by the lien, the owner may pursue a deficiency against the tenant. If the proceeds from sale of the property are more than the amount required to pay the obligation secured by the owner's lien, the owner shall hold the excess proceeds for a period of ninety (90) days from the date of the sale. During this period, any persons, including the tenant, claiming an interest in the excess proceeds from the sale of the property shall present adequate proof of their claim to the owner. After the expiration of the ninety-day period, the owner shall make such distribution of the excess proceeds as is required based upon the claims presented. If after making distribution of the proceeds as prescribed by this subsection there are any remaining proceeds, the excess proceeds shall be presumed abandoned and administered in accordance with the Uniform Unclaimed Property Act.

N. If the requirements of the Self-Service Storage Facility Lien Act are not satisfied, if the sale of the personal property is not in conformity with the notice of sale, or if there is a willful violation of this act, nothing in this section affects the rights and liabilities of the owner, the occupant, or any other person.

O. Any purchaser of personal property sold pursuant to this section for which a certificate of title has been issued by the Oklahoma Tax Commission shall obtain a certificate of title to be issued in the purchaser's name in the same manner as provided by law for the issuance of a certificate of title for property requiring a certificate of title sold pursuant to the provisions of Sections 91 through 102 of this title.

Added by Laws 1998, c. 306, § 7, eff. Nov. 1, 1998. Amended by Laws 1999, c. 212, § 3, eff. Nov. 1, 1999; Laws 2000, c. 371, § 172, eff. July 1, 2001; Laws 2018, c. 160, § 4, eff. Nov. 1, 2018.

§42-197.1. Abandonment or surrender - Possession - Disposal - Notice.

A. If the occupant abandons or surrenders possession of the self-service storage facility and leaves household goods, furnishings, fixtures, or any other personal property in the self-service storage facility, the owner may take possession of the

property, and if, in the judgment of the owner, the property has no ascertainable or apparent value, the owner may dispose of the property without any duty of accounting or any liability to any party.

B. If the occupant abandons or surrenders possession of the self-service storage facility and leaves household goods, furnishings, fixtures, or any other personal property in the self-service storage facility, the owner may take possession of the property, and if, in the judgment of the owner the property has an ascertainable or apparent value, such property left with the owner for a period of thirty (30) days or longer shall be conclusively determined to be abandoned and as such the owner may dispose of said property in any manner which he deems reasonable and proper without liability to the occupant or any other interested party; however, before the property is disposed of, the owner shall provide written notice to the occupant, by certified mail with return receipt requested, and the owner may dispose of the property fifteen (15) days after the owner receives the return receipt document or fifteen (15) days after the owner receives a communication from the United States Post Office that the written notice was not claimed by the addressee, whichever period occurs first.
Added by Laws 1999, c. 212, § 4, eff. Nov. 1, 1999.

§42-198. Residential use prohibited.

No occupant shall use a self-service storage facility for residential purposes.
Added by Laws 1998, c. 306, § 8, eff. Nov. 1, 1998.

§42-199. Other rights not impaired or affected.

Nothing in this act shall be construed as in any manner impairing or affecting the right of parties to create liens by special contract or agreement, nor shall it in any manner affect or impair other liens arising at common law in equity, or by any statute of this state.
Added by Laws 1998, c. 306, § 9, eff. Nov. 1, 1998.

§42-200. Publication of act.

The Oklahoma Real Estate Commission shall cause the "Self-Service Storage Facility Lien Act" to be reproduced in a publication together with other statutes of the State of Oklahoma as are ordinarily reproduced by the Commission for distribution to the public.
Added by Laws 1998, c. 306, § 10, eff. Nov. 1, 1998.

§42-201. Short title.

This act shall be known and may be cited as the "Commercial Real Estate Broker Lien Act".

Added by Laws 2006, c. 166, § 1, eff. Nov. 1, 2006.

§42-202. Definitions.

As used in this act:

1. "Commercial real estate" means any real estate other than:
 - a. real estate containing one to four residential units, or
 - b. real estate on which no buildings or structures are located and which is zoned for single-family residential use.

Commercial real estate shall not include single-family residential units such as condominiums, town houses, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even though these units may be a part of a larger building or parcel of real estate containing more than four residential units;

2. "Commission" means any and all compensation which may be due a broker for performance of licensed services; and

3. "Real estate broker" shall be defined pursuant to Section 858-102 of Title 59 of the Oklahoma Statutes.

Added by Laws 2006, c. 166, § 2, eff. Nov. 1, 2006.

§42-203. Real estate broker lien - Attachment.

A. A real estate broker shall have a lien, upon commercial real estate or any interest in that commercial real estate which is the subject of a purchase, lease or other conveyance to a buyer or tenant of an interest in the commercial real estate, in the amount that the broker is due for licensed services which shall include, without limitation, brokerage fees, consulting fees, and management fees.

The lien shall be available only to the broker named in a written instrument signed by an owner, buyer, or tenant or their respective agents as applicable.

B. A lien under this act shall attach to commercial real estate or any interest in the commercial real estate when:

1. The broker is entitled to a stated fee or commission provided in a written instrument signed by the owner, buyer, tenant, or their respective authorized agents, as applicable; and

2. The broker records a notice of lien in the county clerk's office of the county in which the real property is located, prior to the actual conveyance or transfer of the commercial real estate against which the broker is claiming a lien, except as provided in subsection C, D or E of this section. The lien shall attach as of the date of the recording of the notice of lien and does not and shall not relate back to the date of the written instrument.

C. LEASES. In the case of a lease, including a sublease or assignment of lease, the notice of lien must be recorded not later

than ninety (90) days after the tenant takes possession of the leased premises. The lien shall attach as of the recording of the notice of lien and shall not relate back to the date of the written instrument.

D. FUTURE COMMISSIONS IN LEASE TRANSACTIONS. 1. If a broker may be due additional commission as a result of future actions, including but not limited to the exercise of an option to expand the leased premises, to renew or extend a lease, pursuant to a written instrument signed by the then owner or tenant, the broker may record its notice or lien at any time after execution of the lease or other written instrument which contains such option but not later than ninety (90) days after the event or occurrence on which the future commission is claimed occurs. An action to foreclose a lien to collect future commissions must be commenced within two (2) years of the occurrence or transaction on which the future commission is claimed.

2. In the event that the property is sold or otherwise conveyed prior to the date on which a future commission is due and if the broker has filed a valid notice of lien prior to the sale or other conveyance of the property, then the purchaser or transferee shall be deemed to have notice of and shall take title to the property subject to the notice of lien. Provided, however, that if a broker claiming a future commission fails to record its notice of lien for future commission prior to the recording of a deed conveying legal title to the property to the purchaser or transferee, then such broker may not claim a lien on the property. The provisions of this subsection shall not limit or otherwise affect claims or defenses a broker or owner or any other party may have on any other basis, in law or in equity.

E. BUYER'S BROKER. If a broker has a written agreement with a prospective buyer or tenant as described in subsection A of this section, then the lien shall attach upon the prospective buyer purchasing or otherwise accepting a conveyance or transfer of the commercial real estate and the recording of a notice of lien by the broker in the county clerk's office of the county in which the real property, or any interest in the real property is located, within ninety (90) days after the purchase or other conveyance or transfer to the buyer or tenant. The lien shall attach as of the date of the recording of the notice of lien and shall not relate back to the date of the written instrument.

Added by Laws 2006, c. 166, § 3, eff. Nov. 1, 2006.

§42-204. Notice of lien - Mailing.

The broker shall, within ten (10) days of recording its notice of lien, either mail a copy of the notice of lien to the owner of record on the commercial real estate by registered or certified mail at the address of the owner stated in the written instrument on

which the claim for lien is based, or if no such address is given, then to the address of the commercial real estate on which the claim of lien is based. Mailing of the copy of the notice of lien is effective when deposited in a United States mailbox with postage prepaid. The broker's lien shall be unenforceable if mailing or service of the copy of notice of lien does not occur at the time and in the manner required by this section.

Added by Laws 2006, c. 166, § 4, eff. Nov. 1, 2006.

§42-205. Suit to enforce lien - Extinguishment of lien.

A. A broker claiming a lien under this act shall, within two (2) years after recording the notice of lien, bring suit to enforce the lien in the district court in the county where the property is located. Failure to commence proceedings as required herein within two (2) years after recording the notice of lien shall extinguish the lien. No subsequent notice of lien may be given for the same claim nor may that claim be asserted in any proceedings under this act.

B. A broker claiming a lien based upon an option or other right to purchase or lease shall, within two (2) years after the transfer or conveyance of the commercial real estate under the exercise of the option to purchase or lease, commence proceedings by filing a complaint. Failure to commence proceedings within this time shall extinguish the lien. No subsequent notice of lien may be given for the same claim nor may that claim be asserted in any proceedings under this act.

Added by Laws 2006, c. 166, § 5, eff. Nov. 1, 2006.

§42-206. Notice of lien - Contents.

The notice of lien shall state the name of the claimant, the name of the owner, a description of the property upon which the lien is being claimed, the amount for which the lien is claimed, and the license number of the real estate broker. The notice of lien shall recite that the information contained in the notice is true and accurate to the knowledge of the signators. The notice of lien shall be signed by the broker or by a person authorized to sign on behalf of the broker and shall be notarized.

Added by Laws 2006, c. 166, § 6, eff. Nov. 1, 2006.

§42-207. Release or satisfaction of lien - Demand for suit to enforce lien - Alternate dispute resolution - Attorneys' fees, costs and interest.

A. Whenever a notice of lien has been filed with the county clerk and a condition occurs that would preclude the broker from receiving compensation under the terms of the written agreement on which the lien is based, the broker shall provide to the owner of record a written release or satisfaction of the lien.

B. An owner, lienee, or other authorized agent may serve written demand on the broker claiming the lien requiring the broker to file suit to enforce the lien. Upon receipt of the written demand, the broker shall file suit within thirty (30) days, or the lien shall be extinguished. Service of such written demand may be made by registered or certified mail, return receipt requested, or by personal service.

C. Whenever a notice of lien has been filed with the county clerk and such claimed commission has been paid to the broker claiming the lien, or where there is failure to institute a suit to enforce the lien within the time provided by this act, the broker shall acknowledge satisfaction or release of the notice of lien in writing, on written demand of the owner within five (5) days after payment or within five (5) days of expiration of the time in which the notice of lien was to be filed.

D. If the broker and the party or parties from whom the commission is claimed agree to alternative dispute resolution, the claim shall be heard and resolved in the forum on which these parties have agreed. The court before which the lien foreclosure proceeding is brought shall retain jurisdiction to enter judgment on the award or other result made or reached on alternative dispute resolution on all parties to the foreclosure. The broker's notice of lien shall remain of record and the foreclosure proceeding shall be stayed during the pendency of the resolution process.

E. The cost of proceedings brought under this act, including reasonable attorney fees, costs, and prejudgment interest due to the prevailing party, shall be borne by the nonprevailing party or parties. When more than one party is responsible for costs, fees, and prejudgment interest, the costs, fees, and prejudgment interest shall be equitably appointed by the court or tribunal among those responsible parties.

Added by Laws 2006, c. 166, § 7, eff. Nov. 1, 2006.

§42-208. Priority of lien.

Prior valid recorded liens, mortgages, and other encumbrances shall have priority over a broker's lien. Such prior recorded liens, mortgages, and encumbrances shall include, without limitation:

1. A valid mechanic's lien claim that is recorded after the broker's notice of lien but which relates back to a date prior to the recording date of the broker's notice of lien; and

2. Prior recorded liens securing revolving credit and future advances or construction loans.

Added by Laws 2006, c. 166, § 8, eff. Nov. 1, 2006.

§42-209. Lien on escrow account.

Except as otherwise provided in this section, whenever a claim for lien has been filed with the county clerk, and an escrow account has been established either from the proceeds from the transaction or any other source of funds in an amount equal to one hundred twenty-five percent (125%) of the amount of the claim for lien, then the lien against the commercial real estate shall be extinguished and become a lien on the funds contained in the escrow account. The establishment of an escrow account, as provided for in this section, shall not be cause for any party to refuse to close the transaction. Added by Laws 2006, c. 166, § 9, eff. Nov. 1, 2006.

§42-91Av1. Lien on certain personal property for service thereon - Certificate of title - Foreclosure - Notice - Purchaser - Unpaid checks - Repossession.

A. 1. a. This section applies to all types of personal property other than:

- (1) farm equipment as defined in Section 91.2 of this title, and
- (2) "Section 91 Personal Property" as defined in Section 91 of this title.

b. This section applies to any vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer that is excluded from coverage under subsection A of Section 91 of this title because the personal property:

- (1) does not have a certificate of title,
- (2) has a certificate of title but does not have an active lien recorded on the certificate of title,
- (3) has a certificate of title that is not issued by the Oklahoma Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, or
- (4) is otherwise excluded by subparagraph b of paragraph 1 of subsection A of Section 91 of this title or subsection D of Section 91 of this title.

c. If personal property has a certificate of title, or would be required to have a certificate of title under Oklahoma law, and is apparently covered both by this section and by Sections 191 through 200 of this title, the procedures set out in this section shall apply instead of Sections 191 through 200 of this title. If personal property without a certificate of title and not required to be titled under Oklahoma law is covered both by this section and Sections 191 through 200 of this title, the procedures set out in Sections

191 through 200 of this title shall apply instead of this section.

2. a. Any person who, while lawfully in possession of an article of personal property to which this section applies, renders any service to the owner thereof by furnishing storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to such person from the owner for such service. Charges owed under a contract primarily for the purpose of storage or rental of space shall be accrued only at the regular periodic rate for storage or rental as provided in the contract, adjusted for partial periods of storage or rental.
- b. Except for Class AA licensed wrecker towing charges, the special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section. Failure to comply with any requirements of this section shall result in denial of any title application and cause the special lien to be subordinate to any perfected lien. Upon such denial, the applicant shall be entitled to one resubmission of the title application within thirty (30) business days of receipt of the denial, and proceed to comply with the requirements of this section. In the event of a denial, the Notice of Possessory Lien and the Notice of Sale may be mailed on the same day in separate envelopes and storage charges shall only be charged from the date of resubmission; however, before a Notice of Sale is to be mailed, the personal property must have been possessed by the possessory lien claimant for at least twenty-one (21) days. Furthermore, if the denial was due to error by the party submitting the title application, then no additional fee for the resubmission shall be charged to the property owner. "Failure to comply" includes, but is not limited to:
 - (1) failure to timely provide additional documentation supporting or verifying any entry on submitted forms as requested by the Tax Commission,
 - (2) failure to provide the documentation supporting lawful possession as outlined in paragraph 3 of subsection H of this section,

- (3) claimant being other than the individual who provided the service giving rise to the special lien, as in subparagraph a of this paragraph,
 - (4) claimant not being in possession of the vehicle, or
 - (5) notification and proceedings not accomplished in accordance with subparagraph c of this paragraph, and paragraph 3 of this subsection.
- c. Any person claiming a lien under this section shall request, within five (5) business days of performing any service or work on the property, the Tax Commission or other appropriate license agency to furnish the name and address of the current owner of and any lienholder upon the property. The Motor Vehicle Division of the Tax Commission or appropriate license agency shall respond in person or by mail to the lien claimant within ten (10) business days of the receipt of the request for information. The Tax Commission shall render assistance to ascertain ownership, if needed. The lien claimant shall send, within seven (7) business days of receipt of the requested information from the Oklahoma Tax Commission or other license agency, a notice of the location of the property by certified mail with return receipt requested, postage prepaid, to the owner and any lienholder of the vehicle at the addresses furnished. The lien claimant may charge Twenty Dollars (\$20.00) for processing plus the cost of postage if the notice is timely sent pursuant to the requirements of this subparagraph in addition to fees regulated by the Oklahoma Corporation Commission for licensed wreckers. If the lien claimant is unable to meet the time requirements due to a lack of or an altered vehicle identification number on the property, the lien claimant shall proceed diligently to obtain the proper vehicle identification number and shall meet the time requirements on the notice once the vehicle identification number is known. If the lien claimant is required to send additional notices because of change of ownership or lienholder after it has timely complied with the requirements of this subparagraph, the lien claimant shall remain in compliance if such additional notices are sent within the required time periods from the date of discovery of the new owners or lienholders. The notice shall be in writing and shall contain, but not be limited to, the following:

- (1) a statement that the notice is a Notice of Possessory Lien,
- (2) the complete legal name, physical and mailing address, and telephone number of the claimant,
- (3) the complete legal name, physical and mailing address of the person who requested that the claimant render service to the owner by furnishing material, labor or skill, storage, or rental space, or the date the property was abandoned if the claimant did not render any other service,
- (4) a description of the article of personal property, and the complete physical and mailing address of the location of the article of personal property,
- (5) the nature of the work, labor or service performed, material furnished, or the storage or rental arrangement, and the date thereof, and written proof of authority to perform the work, labor or service provided that, in the case of a law enforcement directed tow, the logbook entry prescribed in OAC 595:25-5-5 or the tow ticket as defined by the Corporation Commission shall serve as written proof of authority,
- (6) the signature of the claimant which shall be notarized and, if applicable, the signature of the claimant's attorney. If the claimant is a business, the name of the contact person representing the business shall be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
- (7) an itemized statement describing the date or dates the labor or services were performed and material furnished and the charges claimed for each item, the totals of which shall equal the total compensation claimed.

The lien claimant shall not be required to send the notice required in this subparagraph if the property is released to an interested party before the notice is mailed and no additional charges or fees continue to accrue. If a law enforcement agency has the property towed to a law enforcement facility, the person claiming a lien under this section shall not be required to send notice until the property is released by law enforcement to the claimant or the date which claimant starts charging storage, whichever is

earlier. A lien claimant shall have an extension of ten (10) business days to send the notice required in this subparagraph if a state of emergency has been declared in the county in which the property is located.

- d. Subparagraphs b and c of this paragraph shall not apply to salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes.

3. The lien may be foreclosed by a sale of such personal property upon the notice and in the manner following: The notice shall be in writing and shall contain, but not be limited to:

- a. the names of the owner and any other known party or parties who may claim any interest in the property,
- b. a description of the property to be sold, including a visual inspection or a photograph if the property is a motor vehicle, and the physical location of the property,
- c. the nature of the work, labor or service performed, material furnished, or the storage or rental arrangement, and the date thereof, and written proof of authority to perform the work, labor or service provided. In the case of a law enforcement directed tow, the logbook entry prescribed in OAC 595:25-5-5 or the tow ticket as defined by the Corporation Commission, shall serve as written proof of authority,
- d. the time and place of sale,
- e. the name, telephone number, physical address and mailing address of the claimant, and agent or attorney, if any, foreclosing such lien. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
- f. itemized charges which shall equal the total compensation claimed.

- 4. a. Such Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and a copy of the notice shall be mailed to the owner and any other party claiming any interest in the property, if known, at their last-known post office address, by certified mail, return receipt requested, at least ten (10) days before the time therein specified for such sale. If the item of personal property is a manufactured home, notice shall also be sent by certified mail to the

- county treasurer and to the county assessor of the county where the manufactured home is located.
- b. In the case of any item of personal property without a certificate of title and not required to be titled under Oklahoma law, a party who claims any interest in the property shall include all owners of the property; any secured party who has an active financing statement on file with the county clerk of Oklahoma County listing one or more owners of the property by legal name as debtors and indicating a collateral description that would include the property; and any other person having any interest in the personal property, of whom the claimant has actual notice.
 - c. In the case of personal property subject to this section for which a certificate of title has been issued by any jurisdiction, a party who claims any interest in the property shall include all owners of the article of personal property as indicated by the certificate of title; lien debtors, if any, other than the owners; any lienholder whose lien is noted on the face of the certificate of title; and any other person having any interest in the article of personal property, of whom the claimant has actual notice.
 - d. When the jurisdiction of titling for a vehicle, all-terrain vehicle, motorcycle, boat, outboard motor, or trailer that is five (5) model years old or newer, or a manufactured home that is fifteen (15) model years old or newer, cannot be determined by ordinary means, the claimant, the agent of the claimant, or the attorney of the claimant, shall request, in writing, that the Oklahoma Tax Commission Motor Vehicle Division ascertain the jurisdiction where the vehicle or manufactured home is titled. The Oklahoma Tax Commission Motor Vehicle Division shall, within fourteen (14) days from the date the request is received, provide information as to the jurisdiction where the personal property is titled. If the Oklahoma Tax Commission Motor Vehicle Division is unable to provide the information, it shall provide notice that the record is not available.
 - e. When personal property is of a type that Oklahoma law requires to be titled, the owner of record of that property is unknown, and the jurisdiction of titling and owner of record cannot be determined by ordinary means and also, if applicable, cannot be determined in accordance with the preceding subparagraph, then the special lien may be foreclosed by publication of a

legal notice in a legal newspaper in the county where the personal property is located, as defined in Section 106 of Title 25 of the Oklahoma Statutes. Such notice shall include the description of the property by year, make, vehicle identification number if available from the property, the name of the individual who may be contacted for information, and the telephone number of that person or the address where the vehicle is located. The legal notice shall be published once per week for three (3) consecutive weeks. As soon as circumstances exist as described in the first sentence of this subparagraph, the first date of publication may occur even if the special lien has not accrued for over thirty (30) days. The first date available for public sale of the vehicle is the day following publication of the final notice, but no fewer than thirty (30) days after the lien has accrued. When the owner of record is unknown, the Notice of Sale nevertheless must be completed and mailed to any known interested party by certified mail. For purposes of this paragraph, interested parties shall include all persons described in subparagraph b or subparagraph c of this paragraph, whichever is applicable, with the exception of any owner who is unknown. Except in circumstances described in paragraph 7 of this subsection that provide for a shorter time period, the Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and the Notice of Sale shall not be mailed until at least thirty (30) days after the lien has accrued.

5. The lienor or any other person may in good faith become a purchaser of the property sold.

6. Proceedings for foreclosure under this act shall commence in twenty (20) days after the lien has accrued, except as provided elsewhere in Oklahoma law.

7. Notwithstanding any other provision of law, proceedings for foreclosures for the storage of junk vehicles towed and stored pursuant to Section 955 of Title 47 of the Oklahoma Statutes by Class AA wreckers listed with the Motor Vehicle Division of the Department of Public Safety, may be commenced five (5) days after the lien has accrued. For purposes of this paragraph, "junk vehicles" means any vehicle that is more than ten (10) years old if the cost of a comparable vehicle would be less than Three Hundred Dollars (\$300.00) as quoted in the latest edition of the National Automobile Dealers Association Official Used Car Guide or latest

monthly edition of any other nationally recognized published guidebook, adjusting to the condition of the vehicle.

- B. 1. a. Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an article of personal property on which the person has a special lien created by subsection A of this section, which check or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon the personal property.
- b. The person claiming such lien shall, within thirty (30) days from the date of dishonor of the check or other written order for payment of money, file in the office of the county clerk of the county in which the property is situated a sworn statement that:
 - (1) the check or other written order for immediate payment of money, copy thereof being attached, was received for labor, material or supplies for producing or repairing an article of personal property, or for other specific property-related services covered by this section,
 - (2) the check or other written order was not paid, and
 - (3) the uttering of the check or other written order constituted the means for inducing the person, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the article of personal property.
2. a. Any person who renders service to the owner of an article of personal property by furnishing storage, rental space, material, labor, or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage, or carriage thereof shall have a special lien on such property pursuant to this section if such property is removed from the person's possession, without such person's written consent or without payment for such service.
- b. The person claiming such lien shall, within five (5) days of such nonauthorized removal, file in the office of the county clerk of the county in which the property is located, a sworn statement including:
 - (1) that services were rendered on or in relation to the article of personal property by the person claiming such lien,

- (2) that the property was in the possession of the person claiming the lien but such property was removed without his or her written consent,
- (3) an identifying description of the article of personal property on or in relation to which the service was rendered, and
- (4) that the debt for the services rendered on or in relation to the article of personal property was not paid. Provided, if the unpaid total amount of the debt for services rendered on or in relation to the article of personal property is unknown, an approximated amount of the debt due and owing shall be included in the sworn statement but such approximated debt may be amended within thirty (30) days of such filing to reflect the actual amount of the debt due and owing.

3. The enforcement of the lien shall be within sixty (60) days after filing the lien in the manner provided by law for enforcing the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.

C. If the person who renders service to the owner of an article of personal property to which this section applies relinquishes or loses possession of the article due to circumstances described in subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of subsection B of this section, the person claiming the lien shall be entitled to possession of the article until the amount due is paid, unless the article is possessed by a person who became a bona fide purchaser. Entitlement to possession shall be in accordance with the following:

1. The claimant may take possession of an article pursuant to this subsection only if the person obligated under the contract for services has signed an acknowledgment of receipt of a notice that the article may be subject to repossession. The notice and acknowledgment pursuant to this subsection shall be:

- a. in writing and separate from the written contract for services, or
- b. printed on the written contract for services, credit agreement or other document which displays the notice in bold-faced, capitalized and underlined type, or is separated from surrounding written material so as to be conspicuous with a separate signature line;

2. The claimant may require the person obligated under the contract for services to pay the costs of repossession as a condition for reclaiming the article only to the extent of the

reasonable fair market value of the services required to take possession of the article;

3. The claimant shall not transfer to a third party or to a person who performs repossession services, a check, money order, or credit card transaction that is received as payment for services with respect to an article and that is returned to the claimant because of insufficient funds or no funds, because the person writing the check, issuing the money order, or credit cardholder has no account or because the check, money order, or credit card account has been closed. A person violating this paragraph shall be guilty of a misdemeanor; and

4. An article that is repossessed pursuant to this subsection shall be promptly delivered to the location where the services were performed. The article shall remain at the services location at all times until the article is lawfully returned to the record owner or a lienholder or is disposed of pursuant to this section.

D. 1. This section applies if a vehicle, all-terrain vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer has a certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in Oklahoma, but there is no active lien recorded on the certificate of title.

2. This section applies if a vehicle, all-terrain vehicle, utility vehicle, motorcycle, boat, outboard motor or trailer has a certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in Oklahoma, and there is an active lien recorded on the certificate of title, but the lien is over fifteen (15) years old.

3. This section applies if personal property to which Section 91 of this title otherwise would apply has been registered by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, and there is a lien of record but no certificate of title has been issued.

4. This section applies if personal property to which Section 91 of this title otherwise would apply has not been registered by either the Tax Commission or a federally recognized Indian tribe in the State of Oklahoma, and no certificate of title has been issued, but there is a lien of record.

5. This section applies to personal property that otherwise would be covered by Section 91 of this title, except that the services were rendered or the property was abandoned prior to November 1, 2005.

6. This section applies to a vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer for which ownership cannot be determined by ordinary means or by the Oklahoma Tax Commission Motor Vehicle Division, as provided in subparagraphs d and e of paragraph 4 of subsection A of this section, as applicable.

7. This section applies to items of personal property that are not required by Oklahoma law to be titled, and that do not have a certificate of title.

8. This section applies to salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes.

9. This section applies to class AA licensed wrecker services taking possession of a vehicle pursuant to an agreement with, or at the direction of, or dispatched by a state or local law enforcement or government agency, or pursuant to the abandoned vehicle removal provisions of Section 954A of Title 47 of the Oklahoma Statutes with respect to all types of personal property, regardless of whether that personal property has a certificate of title.

10. For a vehicle abandoned at a salvage pool, if the cost of repairing the vehicle for safe operation on the highway does not exceed sixty percent (60%) of the fair market value of the vehicle as defined in Section 1111 of Title 47 of the Oklahoma Statutes, a salvage title shall not be required.

E. A person who knowingly makes a false statement of a material fact regarding the furnishing of storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof in a proceeding under this section, or attempts to use or uses the provisions of this section to foreclose an owner or lienholder's interest in a vehicle knowing that any of the statements made in the proceeding are false, upon conviction, shall be guilty of a felony.

F. Upon receipt of notice of legal proceedings, the Tax Commission shall cause the sale process to be put on hold until notice of resolution of court proceedings is received from the court. If such notice of commencement of court proceedings is not filed with the Tax Commission, the possessory lien sale process may continue.

G. No possessory lien sale shall be held on a Sunday.

H. For purposes of this section:

1. "Possession" includes actual possession and constructive possession;

2. "Constructive possession" means possession by a person who, although not in actual possession, does not have an intention to abandon property, knowingly has both power and the intention at a given time to exercise dominion or control over the property, and who holds claim to such thing by virtue of some legal right;

3. "Lawfully in possession" means a person has documentation from the owner or the owner's authorized agent, or an insurance company or its authorized agent, authorizing the furnishing of material, labor or storage, or that the property was authorized to be towed to a repair facility.

Class AA wrecker services taking possession of a vehicle pursuant to an agreement with, or at the direction of, or dispatched

by, a state or local law enforcement or government agency, or pursuant to the abandoned vehicle removal provisions of Section 954A of Title 47 of the Oklahoma Statutes, shall be considered lawfully in possession of the vehicle. If the person lacks such documentation, the procedures established by this section shall not apply; and

4. "Itemized charges" means total parts, total labor, total towing fees, total storage fees, total processing fees and totals of any other fee groups, the sum total of which shall equal the compensation claimed.

I. For purposes of this section, the United States Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.

J. If a person claiming a special lien pursuant to this section fails to comply with any of the requirements of this section, any interested party may proceed against the person claiming such lien for all damages arising therefrom, including conversion, if the article of personal property has been sold. If the notice or notices required by this section shall be shown to be knowingly false or fraudulent, the interested party shall be entitled to treble damages. The prevailing party shall be entitled to all costs, including reasonable attorney fees.

K. Any interested party shall be permitted to visually inspect and verify the services rendered by the claimant prior to the sale of the article of property during normal business hours. If the claimant fails to allow any interested party to inspect the property, the interested party shall mail a request for inspection by certified mail, return receipt requested, to the claimant. Within three (3) business days of receipt of the request for inspection, the claimant shall mail a photograph of the property, by certified mail, return receipt requested, and a date of inspection within five (5) business days from the date of the notice to inspect. The lienholder shall be allowed to retrieve the property without being required to bring the title into the lienholder's name, if the lienholder provides proof it is a lienholder and any payment due the claimant for lawful charges where the claimant has complied with this section. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss. In the event any law enforcement agency places a hold on the property, the party wanting to inspect or photograph the property shall obtain permission from the law enforcement agency that placed the hold on the property before inspecting or photographing.

L. This section shall apply to all actions or proceedings that commence on or after the effective date of this act.

Added by Laws 2005, c. 477, § 2, eff. Nov. 1, 2005. Amended by Laws 2006, c. 247, § 2; Laws 2008, c. 98, § 2, eff. July 1, 2008; Laws 2014, c. 405, § 2, eff. Nov. 1, 2014; Laws 2016, c. 316, § 2, emerg. eff. May 20, 2016; Laws 2017, c. 183, § 1, eff. Nov. 1, 2017; Laws 2023, c. 68, § 2, eff. Nov. 1, 2023.