

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 543
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Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Property Code provides for possessory liens and for the sale of certain motor vehicles, motorboats, vessels, and outboard motors on which a lien is recorded. Under current law, mechanics' liens are superior to the liens of dealers who have true ownership of the property. Current law does not require the filing of a work order and does not require a mechanic to divulge certain information, including the physical location of the property. There have been instances where a number of fraudulent liens are filed, dealers are not notified of the liens, and the property is sold as a way of transferring title. Sometimes no work has been done and the property is sold for profit.

C.S.S.B. 543 provides that a garageman with whom certain motor vehicles are left for care has a lien on that motor vehicle for the amount of the charges of the care, including certain reasonable charges for towing but excluding charges for repairs. C.S.S.B. 543 also adds provisions for the sale of motor vehicles by certain lienholders and for an objection to a worker's lien on motor vehicles.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 3 (Section 70.0062, Property Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 70.003(c), Property Code, as follows:

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

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

(a) Requires that, except as provided by Section 70.0061, a holder of a lien under this subchapter or Chapter 59 (Self-Service Storage Facility Liens) on a motor vehicle subject to Chapter 501 (Certificate of Title Act), Transportation Code, or on a motorboat, vessel, or outboard motor for which a certificate of title is required under Subchapter B (Identification of Vessels; Required Numbering), Chapter 31 (Water Safety), Parks and Wildlife Code, as amended, who retains possession of the motor vehicle, motorboat, vessel, or outboard motor for 30 days after the day that the charges accrue give written notice to the owner and each holder of a lien recorded on the certificate of title. Requires that, except as provided by Section 70.0061, if the motor vehicle, motorboat, vessel, or outboard motor is registered outside this state, the holder of a lien under this subchapter who retains possession during that period give notice to the last known registered owner and each lienholder of record. Makes a nonsubstantive change.

(b-1) Requires that a holder of a possessory lien under Section 70.001 (Worker's Lien) who is required to give notice to the owner or a lienholder of record under this section

include in the notice a signed copy of the work order authorizing the repairs on the motor vehicle, motorboat, vessel, or outboard motor.

SECTION 3. Amends Subchapter A, Chapter 70, Property Code, by adding Sections 70.0061 and 70.0062, as follows:

Sec. 70.0061. SALE OF MOTOR VEHICLE BY CERTAIN LIENHOLDERS. (a) Defines "franchised dealer."

(b) Requires a person, other than a franchised dealer, who holds a worker's lien under Section 70.001 on a motor vehicle subject to Chapter 501, Transportation Code, who retains possession of the motor vehicle for 20 days after the day that the charges accrue to give written notice of the worker's lien, including the amount of the charges and a signed copy of the work order authorizing the repairs on the motor vehicle, to the county assessor-collector of the county in which the motor vehicle is located and pay to the county assessor-collector a fee of \$50 for the administrative costs incurred by the county assessor-collector under this section.

(c) Requires the county assessor-collector, not later than the 20th day after the date on which the county assessor-collector receives notice of a worker's lien under this section, to notify the owner of the motor vehicle, each holder of a lien recorded on the certificate of title of the motor vehicle, and the person who claims the worker's lien of the worker's lien claimed on the motor vehicle and the amount of the charges. Requires that a notice provided by a county assessor-collector under this subsection include a copy of the signed copy of the work order provided by the lien claimant under Subsection (b)(1) in the notice to the motor vehicle's owner and each lienholder of record and be sent by certified mail, return receipt requested.

(d) Authorizes the notice required by Subsection (c) to be given by publishing the notice in a newspaper of general circulation in the county in which the motor vehicle is located if the county assessor-collector is unable to locate the last known registered owner or any lienholder of record.

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

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

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

(h) Authorizes the person claiming the worker's lien under Section 70.001, if an objection to the worker's lien has been filed under Section 70.0062, to sell the motor vehicle in the manner provided by Section 70.006, only on or after the 21st day after the date the objection was filed, if no court case has been filed by any interested party regarding the validity of the worker's lien; or the date a judgment is issued in which the worker's lien claimed is found to be valid.

Sec. 70.0062. OBJECTION TO WORKER'S LIEN ON MOTOR VEHICLE. (a) Authorizes an owner or holder of a lien recorded on the certificate of title of a motor vehicle who is notified under Section 70.0061 of a worker's lien claimed on the motor vehicle to file an objection with the county assessor-collector in the county in which the motor vehicle is located asserting that the worker's lien claimed is invalid. Requires that the objection be filed in writing not later than the 20th day after the date the notice is provided and state the reason the owner or lienholder believes the worker's lien is invalid.

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

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

(d) Requires TXDOT to continue a hold under this section until the 20th day after the date on which the county assessor-collector received the objection, unless an owner or lienholder of record provides written notice to the county assessor-collector and TXDOT, before that date, of a pending case regarding the validity of the worker's lien claimed under Section 70.001, including the name of the court and the docket number of the case. Prohibits TXDOT, if TXDOT receives notice of a pending case under this section, from releasing the hold on the motor vehicle record relating to the certificate of title until the date on which the owner, lienholder of record, or person claiming a worker's lien under Section 70.001 provides a copy of a judgment issued in the case to TXDOT.

(e) Require the Texas Transportation Commission to adopt rules necessary to carry out TXDOT's duties under this section.

SECTION 4. Amends Section 501.704, Transportation Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Authorizes TXDOT, if a constitutional or statutory lien is foreclosed, to issue a new certificate of title in the name of the purchaser at the foreclosure sale on receiving proof of notice as required by Sections 70.004 (Possession of Motor Vehicle, Motorboat, Vessel, or Outboard Motor), 70.006, and 70.0061, Property Code.

(c-1) Prohibits TXDOT, notwithstanding Subsection (c), if Sections 70.0061 and 70.0062, Property Code, apply to the lien, from issuing a new certificate of title, unless the time for filing an objection under Section 70.0062 has expired and an objection is not filed; or if an objection is filed, the time for a hold on the title under Section 70.0062 has expired in accordance with that section.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2009.