

# **Title 42 Possessory Lien Procedures on Vehicles Manufactured Homes Commercial Trailers Boats and Outboard Motors**

**This packet contains:**

- Instructions for Title 42 Possessory Lien Procedures on Vehicles, ATV's, Utility Vehicles, Manufactured Homes, Commercial Trailers, Boats and Outboard Motors
- Form 752-A "Notice of Sale"
- Form 752-B "Proof of Posting and Mailing"
- Form 752-C "Return of Sale (Assignment of Ownership)"
- Form 752-D "Notice of Possessory Lien"
- Form 752-E "Affidavit of Publication"

**Effective date 11/01/2017**

**Oklahoma Tax Commission  
Motor Vehicle Division**

Packet 752  
Revised 11-2019

# OKLAHOMA TAX COMMISSION MOTOR VEHICLE DIVISION

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## OUTLINE OF STATUTORY AND PROCEDURAL REQUIREMENTS RELATING TO THE FILING OF A POSSESSORY LIEN ON A VEHICLE, MANUFACTURED HOME, COMMERCIAL TRAILER, BOAT OR OUTBOARD MOTOR PURSUANT TO THE PROVISIONS OF TITLE 42, CHAPTER 2 OF THE OKLAHOMA STATUTES

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### IMPORTANT NOTICE

Oklahoma law outlines two (2) processes for the filing of Title 42 possessory liens on vehicles, manufactured homes, commercial trailers, boats and outboard motors. While the processes are similar overall, important distinctions remain. As a result, the two (2) processes are addressed separately within this information packet, as outlined below.

**PROCESS 1:** Pursuant to 42 O.S. § 91. Applies to vehicles / manufactured homes / commercial trailers / boats / outboard motors titled in the State of Oklahoma, or with a federally recognized Indian tribe, **and** on which an active lien<sup>1</sup> is recorded **and** for which the lien claimants are **not** either a Salvage Pool as defined in Section 591.2 of Title 47 of the Oklahoma Statutes or 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. Class AA licensed wrecker services performing consensual tows are subject to this process. **SECTION I / PART 1** of this information packet contains procedural instructions relating to **PROCESS 1**. **SECTION I / PART 2** contains selected portions of applicable Oklahoma statutory text relating to **PROCESS 1**.

**PROCESS 2:** Pursuant to 42 O.S. § 91A. Applies to vehicles / manufactured homes / commercial trailers / boats / outboard motors titled in another state, **or** which do not have a certificate of title, **or** have a certificate of title on which an active lien is not recorded, **or** are excluded from **PROCESS 1** by 42 O.S. § 91(D), **or** on which the lien claimant is either a licensed Class AA Wrecker Service or Salvage Pool, as defined in 47 O.S. § 591.2. **SECTION II / PART 1** of this information packet contains procedural instructions relating to **PROCESS 2**. **SECTION II / PART 2** contains selected portions of applicable Oklahoma statutory text relating to **PROCESS 2**.

<sup>1</sup> Vehicles / commercial trailers / boats / outboard motors on which the reflected active lien is over fifteen (15) years old are subject to the provisions of **PROCESS 2**. This exception does not apply to manufactured homes.

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### Statutory Reference Key

Throughout this information packet, references are made to specific Oklahoma statutes. Those references may be interpreted as in the following examples:

42 O.S. § 91(A)(3) = Title 42, Section 91, Subsection A, Paragraph 3 of the Oklahoma Statutes

42 O.S. § 91A = Title 42, Section 91A of the Oklahoma Statutes

Much of the statutory language applicable to the two (2) referenced Title 42 possessory lien filing processes is reproduced in this packet for easy reference.

### Contact & Forms Information

- Questions concerning any of the following information, or any aspect of lien filing under the referenced statutory provisions, may be directed to the Motor Vehicle Division of the Oklahoma Tax Commission at (405)521-3227; or via email at [otcmaster@oktax.state.ok.us](mailto:otcmaster@oktax.state.ok.us).
- All forms contained in this packet are available for downloading from the Motor Vehicle Forms section of the Oklahoma Tax Commission web site at [www.oktax.state.ok.us](http://www.oktax.state.ok.us).

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**Notice to Boat/Outboard Motor Lien Claimants:** As boats and outboard motors are independently titled and registered in Oklahoma, separate filings must be completed for each.

# **SECTION I / PART 1**

## **PROCEDURAL INSTRUCTIONS [PROCESS 1]**

**Pursuant to 42 O.S. § 91**

**PROCESS 1: Applicable to vehicles / manufactured homes / commercial trailers / boats / outboard motors titled in the State of Oklahoma, or with a federally recognized Indian tribe, and on which an active lien (not over 15 years old – See page 1) is recorded and for which the lien claimants are not either licensed Class AA Wrecker Services, except when performing consensual tows, or Salvage Pools, as defined in 47 O.S. § 591.2.**

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**THE FOLLOWING INFORMATION IS TO SERVE AS AN OUTLINE OF THE GENERAL TITLE 42 POSSESSORY LIEN FILING PROCEDURES, HEREIN DESIGNATED AS PROCESS 1. OKLAHOMA STATUTORY LANGUAGE APPLICABLE TO PROCESS 1 IS REPRODUCED IN SECTION I / PART 2.**

**REFER TO THE NOTICE ON PAGE 1 OF THIS INFORMATION PACKET FOR AN EXPLANATION REGARDING THE DISTINCTION BETWEEN PROCESS 1 AND PROCESS 2.**

**IT IS THE LIEN FILER'S RESPONSIBILITY TO REVIEW AND ENSURE PROPER COMPLIANCE WITH ALL APPLICABLE STATUTORY REQUIREMENTS. FAILURE TO COMPLY WITH ANY STATUTORY REQUIREMENT SHALL RESULT IN DENIAL OF THE TITLE APPLICATION AND CAUSE THE SPECIAL LIEN TO BE SUBORDINATE TO ANY PERFECTED LIEN. UPON SUCH DENIAL, THE APPLICANT SHALL BE ENTITLED TO ONE (1) RESUBMISSION OF THE TITLE APPLICATION WITHIN FIFTEEN (15) BUSINESS DAYS OF RECEIPT OF THE DENIAL.**

**UPON RECEIPT OF NOTICE OF LEGAL PROCEEDINGS, THE TAX COMMISSION SHALL CAUSE THE SALE PROCESS TO BE PUT ON HOLD UNTIL A NOTICE OF RESOLUTION OF COURT PROCEEDINGS IS RECEIVED FROM THE COURT.**

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**42 OS § 91(A)** states, in pertinent part (Refer to Section I Part 2 for complete language) :

*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.*

*This special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section.*

The intent of this information packet is to provide procedural guidance in applying the above referenced, and accompanying, statutory provisions.

## OWNERSHIP / LIENHOLDER DETERMINATION

[PROCESS 1]

Record ownership and the existence of any lienholders may be established as follows:

### Oklahoma Registered Property

- If the property has an Oklahoma license plate, registration decal, boat registration number, or is otherwise believed to have been registered in this state, contact any Oklahoma tag agency for ownership/lienholder information. Provided the information is available in the computer file, you will be asked to complete a **Vehicle Information Request** (Form 769 – available at the tag agency or may be downloaded from OTC web site) and pay the applicable fee (\$1.00).
- If there is no current ownership/lienholder record on file, as confirmed by the tag agency, complete a **Vehicle Information Request** (Form 769 / \$1.00 fee), requesting a search for the last record owner to be located and the computer record restored and submit to the Oklahoma Tax Commission / Motor Vehicle Division Title Research Section. On the **Request** form, make a notation that you are requesting restoration of a record pursuant to a Title 42 possessory lien filing.

*Please allow 10 business days from the date the request is received for research and return mail time.* If you do not receive any notification from the Research Section by that time, you may telephone (405) 521-3120 to inquire as to the status of your request.

### Indian Tribal Registration

Contact the Motor Vehicle Department, or equivalent, of that tribe for ownership/lienholder information. Once obtained, those parties are to be notified of the pending sale.

- The ownership/lienholder documentation provided (i.e. letter or computer file printout) by the tribe is required to be submitted to OTC/MVD for review and approval as part of the complete filing packet. If the tribe refuses to provide such information, that rejection documentation must be submitted.

## NOTICE OF POSSESSORY LIEN (Form 752-D)

[PROCESS 1]

The **Notice of Possessory Lien** (Form 752-D) is a notification to all interested parties of a possessory lien. It must be completed in its entirety and distributed as outlined below.

- Interested parties are outlined in 42 O.S. § 91(A)(8). Refer to **Section I / Part 2** of this information packet.
- The **Notice** must be sent by *both* 1<sup>st</sup> class U.S. mail *and* certified mail with return receipt requested to all interested parties who reside at separate locations
- Include a photograph, if the property is Section 91 Personal Property.
- Include 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.
- Include 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.
- If the claimant is a business, then the name of the contact person representing the business must be shown.
- **Notice** must be sent *no later* than sixty (60) days after the first services are rendered.
- No storage charges may be assessed until notice is properly given to all interested parties, unless storage or space rental was agreed to by contract as part of an overall agreement pertaining primarily to storage or space rental agreement, in which case the charges may begin up to sixty (60) days prior to the date the Notice is mailed [42 O.S. § 91(A)(5)].
- 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.

## NOTICE OF SALE (Form 752A)

[PROCESS 1]

The **Notice of Sale** must be completed in its entirety, including all statutorily required information.

- **Notice of Sale** required information for **PROCESS 1** is outlined in 42 O.S. § 91(A)(6). Refer to **Section I / Part 2** of this information packet.

### Distribution of Notice

A copy of the **Notice of Sale** must be posted in two (2) public places within the county in which the property is to be sold at least ten (10) days prior to the sale date.

A copy of the **Notice of Sale** must also be mailed by certified mail with return receipt requested *and* 1<sup>st</sup> class US mail to each *interested party*, as defined by statute, at least ten (10) days prior to the sale date.

The **Notice of Sale** shall include:

1. A photograph of the property if the property is Section 91 Personal Property and if the condition of such property has materially changed since the mailing of the Notice of Possessory Lien form.
2. 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.
3. The name, complete physical address, mailing address and telephone number of the party foreclosing such lien shall be listed. If the claimant is a business, then the name of the contact person representing the business must be shown.
4. Itemized charges which equal the total compensation claimed.

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.

- Interested parties for **PROCESS 1** are outlined in 42 O.S. § 91(A)(8). Refer to **Section I / Part 2** of this information packet.
- If a manufactured home, notice by certified mail shall also be sent to the county treasurer and county assessor of the county in which the manufactured home is located.

The **white** certified mail receipt(s) *must* list the name and address indicating where the **Notice of Sale** was sent and *must* be postmarked by the post office. This postmark date will be used to confirm the date mailed in establishing the required ten (10) day period between the mailing date and the property sale date. The US Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.

- Failure to properly complete the mail receipt will result in rejection of the application

Please note the following:

- 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 statutory requirements.
- Upon 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.
- No possessory lien sale may be held on a Sunday
- A *full* ten (10) days must elapse between notification and sale. The sale may be no sooner than the eleventh 11<sup>th</sup> day following the post office date stamped on the certified mail receipt(s).

**EXAMPLE:** Certified mail receipts are dated July 3, 2015. The earliest allowed sale date would be July 14, 2015 (11 days plus 3 = 14). The sale date should be placed on both the **Notice of Sale** (Form 752A) and the **Return of Sale** (Form 752C). All forms *must* list the *same* public sale date. If these dates do not match, the Title 42 will be *rejected*.

## **PROOF OF POSTING AND MAILING (Form OTC 752B)**

[PROCESS 1]

The **Proof of Posting and Mailing** is to be completed in its entirety, listing a complete vehicle description, the locations where the **Notice of Sale** was posted and all interested parties that were notified by certified mail with return receipt requested and 1<sup>st</sup> class US mail.

## **RETURN OF SALE (ASSIGNMENT OF OWNERSHIP) (Form 752C)**

[PROCESS 1]

The **Return of Sale** is to be completed upon sale of the property, recording the date of sale, purchase price, the new owner (buyer), and the odometer disclosure information (Required only on motor vehicles 10 years old and newer).





## **SECTION I / PART 2**

### **STATUTORY AUTHORITY [PROCESS 1]**

**PROCESS 1: Applicable to vehicles / manufactured homes / commercial trailers / boats / outboard motors titled in the State of Oklahoma, or with a federally recognized Indian tribe, and on which an active lien (not over 15 years old – See page 1) is recorded and for which the lien claimants are not either licensed Class AA Wrecker Services, except when performing consensual tows, or Salvage Pools, as defined in 47 O.S. § 591.2.**

#### **42 O.S. § 91 (A) (Selected Provisions)**

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 removal 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. “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.

**Statutory Authority [PROCESS 1] continued**

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,

**Statutory Authority [PROCESS 1] continued**

- 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.

**42 O.S. § 91D**

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.

**Statutory Authority [PROCESS 1] continued**

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.

**42 O.S. § 91**

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 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.

## **SECTION II / PART 1**

### **PROCEDURAL INSTRUCTIONS [PROCESS 2]**

**Pursuant to 42 O.S. § 91A**

**PROCESS 2: Applicable to vehicles / manufactured homes / commercial trailers / boats / outboard motors titled in another state, or which do not have a certificate of title, or have a certificate of title on which an active lien is not recorded, or are excluded from PROCESS 1 by 42 O.S. § 91(D), or on which the lien claimant is either a licensed Class AA Wrecker Service, except when performing consensual tows, or Salvage Pool, as defined in 47 O.S. § 591.2. SECTION II / PART 1 of this information packet contains procedural instructions relating to PROCESS 2. SECTION II / PART 2 contains selected portions of applicable Oklahoma statutory text relating to PROCESS 2.**

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**THE FOLLOWING INFORMATION IS TO SERVE AS AN OUTLINE OF THE GENERAL TITLE 42 POSSESSORY LIEN FILING PROCEDURES, HEREIN DESIGNATED AS PROCESS 2. OKLAHOMA STATUTORY LANGUAGE APPLICABLE TO PROCESS 2 IS REPRODUCED IN SECTION 2 / PART 2.**

**REFER TO THE NOTICE ON PAGE 1 OF THIS INFORMATION PACKET FOR AN EXPLANATION REGARDING THE DISTINCTION BETWEEN PROCESS 1 AND PROCESS 2.**

**IT IS THE LIEN FILER'S RESPONSIBILITY TO REVIEW AND ENSURE PROPER COMPLIANCE WITH ALL APPLICABLE STATUTORY REQUIREMENTS. FAILURE TO COMPLY WITH ANY STATUTORY REQUIREMENT SHALL RESULT IN DENIAL OF THE TITLE APPLICATION AND, WITH THE SPECIFIC EXCEPTIONS OF CLASS AA WRECKER TOWING CHARGES AND LIENS CLAIMED BY SALVAGE POOLS DEFINED UNDER 47 OS § 591.2, CAUSE THE SPECIAL LIEN TO BE SUBORDINATE TO ANY PERFECTED LIEN. UPON SUCH DENIAL, THE APPLICANT SHALL BE ENTITLED TO ONE (1) RESUBMISSION OF THE TITLE APPLICATION WITHIN THIRTY (30) BUSINESS DAYS OF RECEIPT OF THE DENIAL.**

**UPON RECEIPT OF NOTICE OF LEGAL PROCEEDINGS, THE TAX COMMISSION SHALL CAUSE THE SALE PROCESS TO BE PUT ON HOLD UNTIL A NOTICE OF RESOLUTION OF COURT PROCEEDINGS IS RECEIVED FROM THE COURT.**

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**42 OS § 91A**, states, in pertinent part (Refer to Section II Part 2 for complete language):

*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.*

*This special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section.*

The intent of this information packet is to provide procedural guidance in applying the above referenced, and accompanying, statutory provisions.

## OWNERSHIP / LIENHOLDER DETERMINATION

[PROCESS 2]

Record ownership and the existence of any lienholders may be established as follows:

### **Oklahoma Registered Property or Registration Unknown**

- If the property has an Oklahoma license plate, registration decal, boat registration number, or is otherwise believed to have been registered in this state, contact any Oklahoma tag agency for ownership/lienholder information. Provided the information is available in the computer file, you will be asked to complete a **Vehicle Information Request** (Form 769 – available at the tag agency or may be downloaded from OTC web site) and pay the applicable fee (\$1.00).
- If there is no current ownership/lienholder record on file, as confirmed by the tag agency, or there is no license plate or registration decal affixed to the property (i.e. state of registration unknown), complete a **Vehicle Information Request** (Form 769), requesting a search for the last record owner to be located and the computer record restored (fee \$1.00) and submit to the Oklahoma Tax Commission / Motor Vehicle Division Title Research Section. On the **Request** form, make a notation that you are requesting restoration of a record pursuant to a Title 42 possessory lien filing.
  - If a record is found, it will be restored and a printout returned to the requestor. If no Oklahoma record is found, a response will be returned stating that fact. In that event, the **Titling Jurisdiction Unknown** procedure will apply.

*Please allow ten (10) business days from the date the request is received for research and return mail time.* If you do not receive any notification from the Research Section by that time, you may telephone (405) 521-3120 to inquire as to the status of your request.

### **Out of State Titling Jurisdiction**

If the property was most recently titled and/or registered in another state or with an Indian tribe, contact the Motor Vehicle Department, or equivalent, of that state or tribe for ownership/lienholder information. Once obtained, those parties are to be notified of the pending sale.

- The ownership/lienholder documentation provided (i.e. letter or computer file printout) by the other jurisdiction is required to be submitted to OTC/MVD for review and approval as part of the complete filing packet.
- If the titling jurisdiction refuses to provide ownership/lienholder information to you, include their rejection documentation in the filing packet.

### **Titling Jurisdiction Unknown**

When the jurisdiction of titling is unknown and the vehicle/ATV/utility vehicle/ commercial trailer/boat or motor is *five (5) model years or newer*, or manufactured home is *fifteen (15) model years or newer*, the claimant or their agent shall request, in writing, that the Oklahoma Tax Commission Motor Vehicle Division (OTC/MVD) ascertain the jurisdiction of titling. Within fourteen (14) days of receipt of the request, the Division will provide either the titling jurisdiction, or notice that no determination was made.

- If a titling jurisdiction is determined, the claimant must contact that jurisdiction's Motor Vehicle Division, or equivalent, for information. Refer to **Out of State Titling Jurisdiction** section.
- If no titling jurisdiction determination is made, as confirmed by OTC/MVD, notice by publication is required. Refer to **Newspaper Notice** section.

When the jurisdiction of titling is unknown and the vehicle/ATV/utility vehicle/ commercial trailer/boat or motor is *over (5) model years old*, or manufactured home is *over fifteen (15) model years old*, notice by publication is required. Refer to **Newspaper Notice** section.

### **NOTICE OF POSSESSORY LIEN (Form 752-D)**

[PROCESS 2]

The **Notice of Possessory Lien** (Form 752-D) is a notification to all interested parties of a possessory lien. It must be completed in its entirety and distributed as outlined below.

- Interested parties are outlined in 42 O.S. § 91(A)(8). Refer to **Section I / Part 2** of this information packet.
- The **Notice** must be sent by certified mail with return receipt requested to all interested parties who reside at separate locations.
- Include the nature of the work, labor or service performed, material furnished, or the storage or rental agreement, 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.
- Include 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.
- 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 if a state of emergency has been declared in the county in which the property is located.
- Salvage Pools as defined under 47 OS § 591.2 are exempt from the Notice of Possessory Lien requirement

## NOTICE OF SALE (Form 752A)

### [PROCESS 2]

The **Notice of Sale** must be completed in its entirety, including all statutorily required information.

- **Notice of Sale** required information for **PROCESS 2** is outlined in 42 O.S. § 91A(A)(3). Refer to **Section II / Part 2** of this information packet.
- Interested parties for **PROCESS 2** are outlined in 42 O.S. § 91A(A)(4). Refer to **Section II / Part 2** of this information packet.

### Distribution of Notice

A copy of the **Notice of Sale** must be posted in two (2) public places within the county in which the property is to be sold at least ten (10) days prior to the sale date.

A copy of the **Notice of Sale** must also be mailed by certified mail with return receipt requested to each *interested party*, as defined by statute, at least ten (10) days prior to the sale date.

The **Notice of Sale** shall include:

1. A description of the property to be sold, its physical location and a photograph, if a motor vehicle, or, if not a motor vehicle, either a photograph of the property or written confirmation of a visual inspection of the property completed by the claimant, verifying both the accuracy of the VIN or serial number and general condition of the property.
2. 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.
3. Itemized charges which equal the total compensation claimed.
4. If a manufactured home, notice by certified mail shall also be sent to the county treasurer and county assessor of the county in which the manufactured home is located.

The **white** certified mail receipt(s) *must* list the name and address indicating where the **Notice of Sale** was sent and *must* be postmarked by the post office. This postmark date will be used to confirm the date mailed in establishing the required ten (10) day period between the mailing date and the property sale date. The US Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.

- Failure to properly complete the mail receipt will result in the Title 42 being *rejected*.

A *full* ten (10) days must elapse between notification and sale. The sale may be no sooner than the eleventh 11<sup>th</sup> day following the post office date stamped on the certified mail receipt(s).

**EXAMPLE:** Certified mail receipts are dated July 3, 2015. The earliest allowed sale date would be July 14, 2015 (11 days plus 3 = 14). The sale date should be placed on both the **Notice of Sale** (Form 752A) and the **Return of Sale** (Form 752C). All forms *must* list the *same* public sale date. If these dates do not match, the Title 42 will be *rejected*.



## NEWSPAPER NOTICE INSTRUCTIONS

[PROCESS 2]

In the event all applicable ownership/lienholder determination procedures have been followed and resulted in no record found, the ownership notification requirement may be satisfied by placing a newspaper notice stating the property is to be sold at public auction. The following guidelines apply:

- The newspaper must be authorized to publish legal notices pursuant to the provisions of 25 O.S. § 106 and must be published in the county in which the vehicle/boat/motor is located. If no newspaper authorized by law to publish legal notices is published in that county, the notice is to be published in some such newspaper of general circulation which is published in an adjoining county. The eligibility of a specific newspaper may be verified by contacting the Oklahoma Tax Commission Motor Vehicle Division Title 42 Section.
- The newspaper notice must identify the property by identification number, year and make.
- The notice must include the name of the individual who may be contacted for information and their telephone number or the address where the property is located.
- The notice must run at least one (1) day per week for three (3) consecutive weeks. 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 property is the day following publication of the final notice, but no fewer than thirty (30) days after the lien has accrued.

Upon completion of the newspaper notification process, an **Affidavit of Publication** (Form 752-E) must be completed and included with the Title 42 documentation submitted to the Oklahoma Tax Commission / Motor Vehicle Division.

**Note:** The above newspaper notice procedure is in *addition* to the requirement that copies of the Notice of Sale are to be posted in (2) two public places within the county of public sale of the property.

## PROOF OF POSTING AND MAILING (Form 752B)

[PROCESS 2]

The **Proof of Posting and Mailing** is to be completed in its entirety, listing a complete vehicle description, the locations where the **Notice of Sale** was posted and all interested parties that were notified by certified mail.

## RETURN OF SALE (ASSIGNMENT OF OWNERSHIP) (Form 752C)

[PROCESS 2]

The Return of Sale is to be completed upon sale of the property, recording the date of sale, purchase price, the new owner (buyer), and the odometer disclosure information (Required only on motor vehicles 10 years old and newer).





For Claimants Use Only

# DOCUMENT CHECKLIST

## TITLE 42 POSSESSORY LIEN

OKLAHOMA TAX COMMISSION / MOTOR VEHICLE DIVISION  
PURSUANT TO THE PROVISIONS OF 42 O.S. CHAPTER 91

**Note:** This checklist is intended only as an aid to the applicant, to assist in ensuring all required documentation is submitted. Use of this checklist is voluntary. If utilized, we suggest submitting the checklist with your application, placing documents in the order listed below.

This checklist addresses documentary requirements in effect as of the above noted date. Changes in statutory or rule guidelines subsequent to that date may impact the accuracy of the below information.

Name of Company: \_\_\_\_\_

Address: \_\_\_\_\_

Vehicle: Year: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_

VIN: \_\_\_\_\_

### PLACE AN 'X' BESIDE EACH ITEM INCLUDED IN THE APPLICATION PAPERWORK

- \_\_\_\_\_ Return of Sale (Form 752-C)
- \_\_\_\_\_ Notice of Sale (Form 752-A)
- \_\_\_\_\_ Certified Mail Receipts  
Form 3811 for mailing Notice of Sale, or  
USPS Verification of Delivery.
- \_\_\_\_\_ Printout (To be obtained within 5 business days), or  
Copy of letter of request from another state or Tribe showing the date of the request, or  
Copy of the release date by a law enforcement agency.
- \_\_\_\_\_ Notice of Possessory Lien (Form 752-D)
- \_\_\_\_\_ Certified Mail Receipts  
Form 3811 for mail Notice of Possessory Lien, or  
USPS Verification of Delivery.
- \_\_\_\_\_ Proof of posting and mailing (Form 752-B)
- \_\_\_\_\_ Written Authorization
- \_\_\_\_\_ Photo
- \_\_\_\_\_ Additional documentation or written explanation

By: \_\_\_\_\_ Signature: \_\_\_\_\_  
(Print Name)

Daytime Phone Number: \_\_\_\_\_

## **SECTION II / PART 2**

### **STATUTORY AUTHORITY [PROCESS 2]**

**PROCESS 2: Applicable to vehicles / manufactured homes / commercial trailers / boats / outboard motors titled in another state, or which do not have a certificate of title, or have a certificate of title on which an active lien is not recorded, or are excluded from PROCESS 1 by 42 O.S. § 91(D), or on which the lien claimant is either a licensed Class AA Wrecker Service or Salvage Pool, as defined in 47 O.S. § 591.2. SECTION II / PART 1 of this information packet contains procedural instructions relating to PROCESS 2. SECTION II / PART 2 contains selected portions of applicable Oklahoma statutory text relating to PROCESS 2.**

#### **42 O.S. § 91A**

- 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, or
  - (2) has a certificate of title but does not have an active lien recorded on the certificate of title, or
  - (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. “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,

**Statutory Authority [PROCESS 2] continued**

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 licensed 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 the 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 the 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.

**Statutory Authority** [PROCESS 2] *continued*

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, utility 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 not be commenced until thirty (30) 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.

**42 O.S. § 91A**

D. 1. This section applies 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 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.



**42 O.S. § 91A**

H. For purposes of this section:

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

Section 3. This act shall become effective November 1, 2014.



For Claimants Use Only

# NOTICE OF SALE

OKLAHOMA TAX COMMISSION / MOTOR VEHICLE DIVISION  
PURSUANT TO THE PROVISIONS OF 42 O.S. CHAPTER 2

Notice of sale is hereby given to all parties with an interest in the described property (*attach additional sheets, if necessary*):  
**If you no longer have a legal or financial interest in the described property, please disregard this notice.**

- (1) \_\_\_\_\_ Name
- (2) \_\_\_\_\_ Name
- (3) \_\_\_\_\_ Name
- (4) \_\_\_\_\_ Name
- (5) \_\_\_\_\_ Name
- (6) \_\_\_\_\_ Name

Property: \_\_\_\_\_  
 Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_  
 \_\_\_\_\_  
 Identification Number \_\_\_\_\_ License Plate/Registration Decal Number and State \_\_\_\_\_

This sale shall be conducted to satisfy the lien on said property claimed by (*lien claimant or legal agent of claimant*):

Lien Claimant: \_\_\_\_\_ DBA (*if applicable*): \_\_\_\_\_

If claimant is a business, list name of contact person representing the business: \_\_\_\_\_

Claimant's Physical Address: \_\_\_\_\_ Telephone Number: ( ) \_\_\_\_\_

Claimant's Mailing Address: \_\_\_\_\_  
(*OTC will return submitted documents to this address*)

### DETAIL OF SERVICE(S) PROVIDED

Repairs Authorized By (*if applicable*): \_\_\_\_\_

Description and Date(s) of Work, Labor and/or Service Performed, including Material (*continue on reverse, if necessary*):  
List charges claimed for each item, the total of which must equal the total compensation claimed.

Date of Abandonment (if no other service rendered): \_\_\_\_\_ (mm/dd/yy)

Storage or Possession from (mm/dd/yy): \_\_\_\_\_ to (mm/dd/yy): \_\_\_\_\_ at \$ \_\_\_\_\_ per day.

Total Amount of Repairs, Service and/or Storage: \$ \_\_\_\_\_

A public sale of the above described property is to be held on (mm/dd/yy): \_\_\_\_\_ at (time): \_\_\_\_\_ (AM/PM)

Sale Location: \_\_\_\_\_  
(*List exact location of sale site, including street address and city. If rural route, include directions to site*)

I hereby confirm and attest to the accuracy of the above described services provided on and for the described property.

Signature of Claimant: \_\_\_\_\_

State of Oklahoma, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My commission expires: \_\_\_\_\_ Notary Public.

**Notice: The described property may be subject to delinquent taxes, fees and penalties due the State of Oklahoma.**

1) When applicable (refer to instructions), attach either a photograph of the property (Process 1 or Process 2 motor vehicle), or an inspection confirmation (Process 2, other than motor vehicle) of its condition.

2) Attach written proof of authority to perform the work, labor or service.



For Claimants Use Only

# PROOF OF POSTING AND MAILING

OKLAHOMA TAX COMMISSION / MOTOR VEHICLE DIVISION  
PURSUANT TO THE PROVISIONS OF 42 O.S. CHAPTER 2

I, (Lien Claimant) \_\_\_\_\_ DBA (if applicable) \_\_\_\_\_

do hereby affirm that copies of the attached Notice of Sale (Form 752-A) regarding the following property:

\_\_\_\_\_

Year	Make	Model	Identification Number
------	------	-------	-----------------------

were posted at the following locations within the county of \_\_\_\_\_, in which the property sale was held:

(1) \_\_\_\_\_  
Street or Physical Address City / State / Zip Code

(2) \_\_\_\_\_  
Street or Physical Address City / State / Zip Code

I further state that a copy of the attached Notice of Sale (Form 752-A) was sent by certified mail and 1<sup>st</sup> class U.S. mail (if applicable) to the following parties with interest in the above described property:

Record Owner:

\_\_\_\_\_

Name	Address	City / State / Zip Code
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Other Interested Parties (*attach additional sheets, if necessary*) :

\_\_\_\_\_

Name	Address	City / State / Zip Code
------	---------	-------------------------

\_\_\_\_\_

Name	Address	City / State / Zip Code
------	---------	-------------------------

\_\_\_\_\_

Name	Address	City / State / Zip Code
------	---------	-------------------------

\_\_\_\_\_

Name	Address	City / State / Zip Code
------	---------	-------------------------

\_\_\_\_\_

Name	Address	City / State / Zip Code
------	---------	-------------------------

\_\_\_\_\_

Name	Address	City / State / Zip Code
------	---------	-------------------------

Signature of Lien Claimant: \_\_\_\_\_

State of Oklahoma, County of: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_ . \_\_\_\_\_ Notary Public



For Claimants Use Only

# RETURN OF SALE (ASSIGNMENT OF OWNERSHIP) OKLAHOMA TAX COMMISSION / MOTOR VEHICLE DIVISION PURSUANT TO THE PROVISIONS OF 42 O.S. CHAPTER 2

I, (Lien Claimant) \_\_\_\_\_ DBA (if applicable) \_\_\_\_\_

DPS Class AA Wrecker Service or AD/UD License Number (if applicable): \_\_\_\_\_ do hereby affirm that, in accordance with the attached Notice of Sale (Form 752-A), the following property:

\_\_\_\_\_  
Year                      Make                      Model                      Identification Number

was offered at public sale on (date) \_\_\_\_\_ and actually sold on (date) \_\_\_\_\_ .

As a result of that sale, ownership of this property is hereby assigned to:

Printed Name of Buyer: \_\_\_\_\_ (Dealer Number, if applicable): \_\_\_\_\_

Buyer's Complete Mailing Address: \_\_\_\_\_

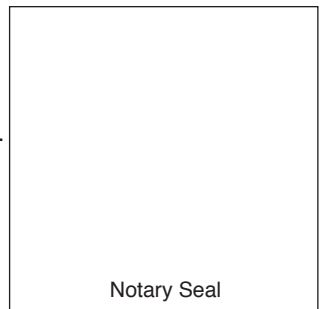
Actual Purchase Price: \_\_\_\_\_ Seller's Signature: \_\_\_\_\_

State of Oklahoma, County of \_\_\_\_\_, §:

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ .

My commission expires: \_\_\_\_\_, \_\_\_\_\_ .

\_\_\_\_\_, Notary Public



### ODOMETER DISCLOSURE STATEMENT

(Required only of motor vehicles, ten (10) model years old or newer)

I, (printed seller's name) \_\_\_\_\_, certify to the best of my knowledge that the **odometer reading** reflected on the vehicle's odometer and listed below is the **actual mileage** of the vehicle, **unless** one (1) of the two (2) accompanying statements is checked.

(No Tenths)

- 1. The odometer has exceeded its mechanical limits
- 2. The odometer reading is **Not** the actual mileage.  
**Warning – Odometer Discrepancy**

\_\_\_\_\_  
Buyer's Printed Name

\_\_\_\_\_  
Seller's Printed Name

\_\_\_\_\_  
Buyer's Signature

\_\_\_\_\_  
Seller's Signature

For the purpose of odometer disclosure, printed names and signatures must be individuals, not business names.

#### Notice

This document is not a certificate of title and cannot be utilized to transfer ownership to a third party.

No ownership change resulting from this possessory lien sale may be completed until all related documentation has been reviewed and approved by the Oklahoma Tax Commission and all applicable taxes/fees remitted.

All required documentation regarding the possessory lien sale of this property must be received by the Oklahoma Tax Commission Motor Vehicle Division within thirty (30) days of the sale date to avoid the assessment of delinquent penalties.



For Claimants Use Only

# NOTICE OF POSSESSORY LIEN

OKLAHOMA TAX COMMISSION / MOTOR VEHICLE DIVISION  
PURSUANT TO THE PROVISIONS OF 42 O.S. CHAPTER 2

This document is to serve as notice to all parties with an interest in the described property of a special lien claim, described hereon. The claimant affirms that the described labor, materials and/or skill furnished were authorized by the owner of the property and was in fact provided or performed, or the property was abandoned as described.

Complete Legal Name of Lien Claimant: \_\_\_\_\_

Business Name (if applicable): \_\_\_\_\_ Telephone Number: ( ) \_\_\_\_\_

Complete Physical Address: \_\_\_\_\_

Complete Mailing Address: \_\_\_\_\_

Property Description:

\_\_\_\_\_ Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Identification Number \_\_\_\_\_

Location of Property: \_\_\_\_\_  
Complete Physical Address Complete Mailing Address

### DETAILS OF SERVICE(S) PROVIDED

Repairs Requested By (Legal Name): \_\_\_\_\_

Requestor's Complete Physical Address: \_\_\_\_\_

Requestor's Complete Mailing Address: \_\_\_\_\_

Itemized Description and Date(s) of Labor and/or Service(s) Performed, including Material *(continue on reverse, if necessary)* :  
List charges claimed for each item, the total of which must equal the total compensation claimed.

Date of Abandonment (if no other service rendered): \_\_\_\_\_ (mm/dd/yy)

Date of First Services Rendered: \_\_\_\_\_ (mm/dd/yy)  
*(Pursuant to 42 O.S. § 91, Notice of Possessory Lien must be mailed by certified mail within 60 days of Date of First Services Rendered)*

Total Amount of Repairs and/or Service Claimed: \$ \_\_\_\_\_

Notice is hereby given to the following interested parties *(Utilize separate Notices, as required, for additional interested parties)* :  
**If you no longer have a legal or financial interest in the described property, please disregard this notice.**

(1) Name: \_\_\_\_\_

Complete Mailing Address: \_\_\_\_\_

(2) Name: \_\_\_\_\_

Complete Mailing Address: \_\_\_\_\_

Signature of Lien Claimant: \_\_\_\_\_

Contact Person (If business): \_\_\_\_\_

State of Oklahoma, County of: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_ . \_\_\_\_\_ Notary Public

**Notice: The described property may be subject to delinquent taxes, fees and penalties due the State of Oklahoma.**

1) When applicable (refer to instructions), attach either a photograph of the property (Process 1 or Process 2 motor vehicle), or an inspection confirmation (Process 2, other than motor vehicle) of its condition.

2) Attach written proof of authority to perform the work, labor or service.



For Claimants Use Only

# AFFIDAVIT OF PUBLICATION

OKLAHOMA TAX COMMISSION / MOTOR VEHICLE DIVISION  
PURSUANT TO THE PROVISIONS OF 42 O.S. CHAPTER 2

To confirm vehicle/boat/outboard motor interested party notification pursuant to the provisions of 12 O.S. § 2004. The stated notification is a result of the filing of a possessory lien pursuant to the provisions of 42 O.S. Chapter 2.

I, (Lien Claimant) \_\_\_\_\_ DBA (if applicable) \_\_\_\_\_

do hereby affirm that proper legal notification to parties with an interest in the following property:

\_\_\_\_\_

Year                      Make                      Model                      Identification Number

was published in the following Oklahoma newspaper on the indicated dates:

Name of Newspaper: _____	County of Publication: _____
Publish Date of Notice 1: _____ (mm/dd/yy)	
Publish Date of Notice 2: _____ (mm/dd/yy)	
Publish Date of Notice 3: _____ (mm/dd/yy)	

### Publication Notice Requirements

The notice must run at least one (1) day per week for three (3) consecutive weeks, in a newspaper authorized to publish legal notices pursuant to the provisions of 25 O.S. § 106 and must be published in the county in which the referenced property is located. The notice must include the following information:

- 1.) Identification number (V.I.N., H.I.N. or serial number), year, make and model of the property.
- 2.) Name and telephone number of an individual who may be contacted in reference to the sale, or the address where the property is located.

I hereby affirm and attest, under penalties of perjury, that all procedural avenues relating to the determining of the property owner and/or lienholders outlined by the Oklahoma Tax Commission Motor Vehicle Division were exhausted prior to my filing of the described newspaper notices. Each notice was properly and completely filed, as attested to on this affidavit, and contained all of the above outlined required information.

Signature of Lien Claimant: \_\_\_\_\_

State of Oklahoma, County of: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_ . \_\_\_\_\_ Notary Public