

BILL ANALYSIS

Senate Research Center
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S.B. 543
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Transportation & Homeland Security
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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.

As proposed, S.B. 543 requires the holder of a possessory lien under Section 70.001 (Worker's Lien), Property Code, to include certain information in the notice to a lienholder of record and a signed copy of the work order authorizing the repairs on the motor vehicle, motorboat, vessel, or outboard motor. S.B. 543 provides that a person who knowingly provides false or misleading information within the required notice commits a Class B misdemeanor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 70.006, Property Code, by adding Subsections (b-1), (b-2), (b-3), and (g), as follows:

(b-1) Requires a holder of a possessory lien under Section 70.001 (Worker's Lien) who is required to give notice to a lienholder of record under this section to include in the notice the physical address of the real property at which the repairs to the motor vehicle, motorboat, vessel, or outboard motor were made; the legal name of the person that holds the possessory lien for which the notice is required; the social security number, taxpayer identification number, or employer identification number, as applicable, of the person that holds the possessory lien for which the notice is required; and a signed copy of the work order authorizing the repairs on the motor vehicle, motorboat, vessel, or outboard motor.

(b-2) Provides that if the holder of a possessory lien required to give notice in accordance with Subsection (b-1) does not comply with that subsection, a lien recorded on the certificate of title of the motor vehicle, motorboat, vessel, or outboard motor is superior to the possessory lienholder's lien.

(b-3) Provides that a person commits an a Class B misdemeanor if the person knowingly provides false or misleading information in a notice required by this section.

(g) Requires a holder of a possessory lien under Section 70.001, after providing notice in accordance with this section, to make commercially reasonable efforts to allow an owner and each lienholder of record to inspect or arrange an inspection of the motor vehicle, motorboat, vessel, or outboard motor by a qualified professional to verify that the repairs were made.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.