

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2076
By: Oliveira; Harless (Nichols)
Business & Commerce
5/24/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2076 amends current law relating to notice requirements and other procedures relating to the possession or sale of a motor vehicle, motorboat, vessel, or outboard motor by a possessory lienholder.

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 70.001, Property Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Provides that, except as provided by Subsection (b), a lien provided by this section on a motor vehicle, motorboat, vessel, or outboard motor is released when a worker:

(1) receives good and sufficient payment of the amounts due under Subsection (a) (authorizing a worker in this state who by labor repairs an article, including a vehicle, motorboat, vessel, or outboard motor, to retain possession of the article until certain conditions are met) and, if applicable, Subsection (d) (authorizing a worker who takes possession of an article under Subsection (b) (relating to the relinquishment of possession of an article when payment was not successfully made) to require a person obligated under the repair contract to pay the costs of repossession as a condition of reclaiming the article); or

(2) relinquishes possession of the motor vehicle, motorboat, vessel, or outboard motor.

(b-2) Prohibits a worker's right to possession under this section from being assigned to a third party in return for payment of any amount due under Subsection (a) or (d).

SECTION 2. Amends Sections 70.006(e), (f), (g), and (h), Property Code, effective September 1, 2015, as follows:

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

(f) Authorizes the lienholder to sell the motor vehicle, motorboat, vessel, or outboard motor at a public sale and apply the proceeds to the charges if the charges are not paid before the 31st day after the date that a copy of the notice required by Subsection (a) is filed with the county tax assessor-collector's office, rather than after the day that the

notice is mailed or published, as applicable. Requires the lienholder to pay excess proceeds to the person entitled to them. Prohibits the public sale from taking place before the 31st day after the date a copy of the notice is filed with the county tax assessor-collector's office.

(g) Requires a holder of a possessory lien on a motor vehicle under Section 70.001 (Worker's Lien), Property Code, other than a person licensed as a franchised dealer under Chapter 2301 (Sale or Lease of Motor Vehicles), Occupations Code, after providing notice in accordance with this section, to allow, on request, an owner and each lienholder of record to inspect or arrange an inspection of the motor vehicle by a qualified professional to verify that the repairs were made. Requires that the inspection be completed before the date of the public sale authorized by Subsection (f).

Deletes existing text requiring a holder of a possessory lien on a motor vehicle under Section 70.001 Property Code, other than a person licensed as a franchised dealer under Chapter 2301, Occupations Code, after providing notice in accordance with this section, to, on request, not later than the 30th day after the date on which the charges accrue, make commercially reasonable efforts to allow an owner and each lienholder of record to inspect or arrange an inspection of the motor vehicle by a qualified professional to verify that the repairs were made.

(h) Requires the county tax assessor-collector, not later than the 15th business day after the date the county tax assessor-collector receives notice under this section, to provide a copy of the notice that indicates the date the notice was filed with the county tax assessor-collector to the owner of the motor vehicle and each holder of a lien recorded on the certificate of title of the motor vehicle. Makes no further change to this subsection.

SECTION 3. (a) Provides that Sections 70.006(e), (f), and (h), Property Code, as amended by this Act, apply only to a notice required under Section 70.006(a), Property Code, provided on or after the effective date of this Act. Provides that a notice provided before September 1, 2015, is governed by the law as it existed immediately before September 1, 2015, and that law is continued in effect for that purpose.

(b) Provides that Section 70.006(g), Property Code, as amended by this Act, applies only to a sale of a motor vehicle, motorboat, vessel, or outboard motor for which the notice required under Section 70.006(a), Property Code, is provided on or after September 1, 2015. Provides that a sale for which the notice required under Section 70.006(a), Property Code, is provided before September 1, 2015, is governed by the law as it existed immediately before September 1, 2015, and that law is continued in effect for that purpose.

SECTION 4. Effective date, except as provided by this Act: upon passage or September 1, 2015.