

**OKLAHOMA TAX COMMISSION**

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT  
FIRST REGULAR SESSION, FIFTY-FIFTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 12, 2015

BILL NUMBER: SB 796 STATUS AND DATE OF BILL: Engrossed 03/11/2015

AUTHORS: House Denney Senate Sykes

TAX TYPE (S): Motor Vehicle SUBJECT: Other

PROPOSAL: Amendatory

The measure proposes amendments to the Title 42 possessory lien requirements. [Detailed description attached].

EFFECTIVE DATE: November 1, 2015

**REVENUE IMPACT:**

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 16: None

FY 17: None

**ADMINISTRATIVE IMPACT:**

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 16: None

Mar. 12, 2015  
DATE

Rick Miller  
DIVISION DIRECTOR

bjs

3-12-15  
DATE

Reece Womack  
REECE WOMACK, ECONOMIST

3/12/15  
DATE

Dan Cook  
FOR THE COMMISSION

## ATTACHMENT TO FISCAL IMPACT SB 796 [Engrossed] Prepared March 12, 2015.

### Section 1 – 42 O.S. §91

- Section one modifies the circumstances under which a Class AA wrecker when a performing “consensual tow” is subject to the provisions of Section 91 to those instances when the consensual tow involves a vehicle less than fifteen (15) years old and with an active lien titled in Oklahoma or by a federally recognized Tribe. The measure provides that in all other instances the provisions of Section 91A of Title 42 will apply.
- Eliminates the return receipt requested requirement for Notices of Possessory Lien.
- Relating to the Notice of Sale requirement the amendment provides that in the case of an owner or agent directed tow, the logbook entry<sup>1</sup> or the tow ticket<sup>2</sup> or under an agreement, contract or policy with a motor club or other insurance company road hazard or towing policy shall serve as written proof of authority to tow and store the vehicles. For purposes of the Notice of Sale this information will also serve as written proof of the lien claimant being lawfully in possession of the personal property.
- Allows an adjustment for the conditions and value of the personal property to treble damages resulting from a false or fraudulent lien claim.
- Eliminates the return receipt requested requirement for Notices of Sale.

### Section 2 – 42 O.S. § 91A

- With the exception of storage fees adds all other Oklahoma Corporation Commission regulated fees to those not subordinated to a perfected lien.
- Increases the claimant resubmission timeline from fifteen (15) business days to thirty (30) days after a title application denial unless a new record must be obtained from a state other than Oklahoma, in which case the resubmission must be made within thirty (30) days from the date that such record is obtained from the state of record
- Allows multiple submissions of title applications after denial thereof by the Tax Commission where currently the applicant is only entitled to one resubmission.
- Extends the time periods for claimant to request ownership information from OTC/MLA<sup>3</sup> from five (5) to seven (7) days and for claimant to mail notification of vehicle location to interested parties from seven (7) to ten (10) days of receipt of OTC/MLA requested information.
- Strikes the return receipt request requirement for the certified mail notification of the location of the property. Adds transferee debtor to the parties which the claimant must send a notice of the property’s location.
- Provides that the Notice of Possessory Lien form sent to the owner or lienholder based on information acquired from other states or tribes is not required to be mailed until the information is physically received by the lien claimant either by mail or electronically.
- Under circumstances when a titling agency fee for obtaining the lienholder information is greater than \$5.00, the lien claimant will be allowed to add the additional cost over \$5.00 to the Notice of Possessory Lien processing fees or may be shown as a separate fee on the form.
- Broaden the circumstances under which a Notice of Possessory Lien may be delayed based on lack of certain information when a lien claimant is unable for any other reason to identify

1 Prescribed in OAC 595:25-5-5;

2 As defined by the Corporation Commission

3 Oklahoma Tax Commission and Motor License Agent

the owner or lienholder of the personal property. The lien claimant shall proceed diligently to obtain in addition the proper vehicle identification number as currently required but also the owner and any lienholder information and shall meet the time requirements on the notice once the vehicle identification number is known.

- Provides Notification exception for Class AA wreckers when a vehicle owner or owner's agent has removed property from towed vehicle while stored by the wrecker.
- Provides for a confirmation of allowed property inspection as an alternative to the requirement to submit a photograph of the property.
- Requires that proof of authority for directed tow - the logbook entry or tow ticket will be made available on request.
- States that a lienholder or vehicle owner making a false statement to obtain the release of personal property from a lien claimant or who attempts to use or uses the provisions of this section to invalidate the lien claimant's interest in personal property knowing that any of the statements made in the proceeding are false is guilty of a felony.
- Allows an adjustment for the conditions and value of the vehicle for treble damages resulting from a false or fraudulent lien claim.
- If the Class AA wrecker lacks the documentation to demonstrate lawful possession of the property, the procedures of Section 91A shall not apply until the Notice of Possessory Lien form is mailed to the registered owner and lienholder, if any. Storage fees shall not continue to accrue until such notice is mailed in the case of missing or incomplete documentation or typographical errors. A lien claimant making an error or typographical error in paperwork will be allowed to resubmit all required documents and allowed to make an adjustment in storage fees owed by the owner or lienholder wanting to retrieve the property being stored to adjust for any errors. The lien claimant will be allowed to dispose of the abandoned property upon approval of the corrected forms.
- Provides for an "Unrecovered Theft" titled vehicle to be changed to "Recovered Theft" status upon towing by Class AA Wrecker at law enforcement direction. Provides for estimate of repair costs to be utilized by OTC to determine whether salvage or junk Recovered Theft title should be issued.
- States that should an owner of the vehicle issues a transfer record to a Class AA licensed wrecker service after the tow or storage date, the transfer record shall not hinder or delay the Notice of Sale or the sale of the abandoned vehicle. The Class AA licensed wrecker will not be denied the ability to perform the process in this section to dispose of an abandoned vehicle as described in this section or Section 91 of this title.
- Makes the revised provisions retroactive to November 1, 2014 by proposing that Section 91A shall apply to all actions or proceedings that commence on or after November 1, 2014. Personal property stored or serviced provided prior to November 1, 2014, will comply with the prior statute provisions.

There is no estimated change in state revenues or any administrative costs/savings to the OTC associated with the proposals set forth in SB 796.