

The seal of the Oklahoma Tax Commission is visible in the background, featuring a central figure holding a scale and a sword, surrounded by stars and the text "OKLAHOMA TAX COMMISSION".

Title 42 Possessory Lien Procedures on Vehicles, ATV's, Utility 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"**

**Oklahoma Tax Commission
Motor Vehicle Division**

Packet 752
Revised 10-2009

OKLAHOMA TAX COMMISSION

MOTOR VEHICLE DIVISION

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

IMPORTANT NOTICE

Oklahoma law outlines two (2) processes for the filing of Title 42 possessory liens on vehicles, ATV's, utility 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: Applies to vehicles/ATV's/utility 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 lien¹ is recorded **and** for which the lien claimants are **not** either licensed Class AA Wrecker Services or Salvage Pools, as defined in 47 O.S. § 591.2. **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: Applies to vehicles/ATV's/utility 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**.

¹ Vehicles/ATV's/utility 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.

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, Paragraph A, Subparagraph 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 (In state toll free telephone) 1-800-522-8165, extension 13227; (Direct telephone) 405/521-3227; or via email at 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.
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Notice to Boat/Outboard Motor Lien Claimants:

Boats and outboard motors are titled and registered separately in Oklahoma. Therefore, separate filings must be completed for a boat and an outboard motor.

SECTION I / PART 1

PROCEDURAL INSTRUCTIONS [PROCESS 1]

PROCESS 1: Applicable to vehicles/ATV's/utility vehicle/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 or Salvage Pools, as defined in 47 O.S. § 591.2.

THE FOLLOWING INFORMATION IS TO SERVE AS AN OUTLINE OF THE GENERAL TITLE 42 POSSESSORY LIEN FILING PROCEDURES, HEREIN DESIGNATED AS PROCESS 1, ON VEHICLES, ATV'S, UTILITY VEHICLES, MANUFACTURED HOMES, COMMERCIAL TRAILERS, BOATS AND OUTBOARD MOTORS SUBJECT TO THIS PROCESS. 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.

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, or boat/outboard motor registration number, 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 record on file, as confirmed by the tag agency, 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.

Please allow 2 weeks for research and return mail time. If you do not receive any notification from the Research Section by that time, you may telephone 405/521-3770 (in state toll free number: 1-800-522-8165, extension 13770) 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 ownership/lienholder information to you, include their rejection documentation in the filing packet.

NOTICE OF POSSESSORY LIEN (Form 752-D)

[PROCESS 1]

The **Notice of Possessory Lien** (Form 752-D) is required only under **PROCESS 1** and 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* 1st class U.S. mail *and* certified mail to all interested parties who reside at separate locations.
- **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)].

Failure to properly comply with the Notice of Possessory Lien process may subject the lien claimant to damage recovery by any interested party, pursuant to the provisions of 42 O.S. § 91(B)(4).

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

1. A copy of the **Notice of Sale** must be posted in three (3) public places within the county in which the property is to be sold at least ten (10) days prior to the sale date.
2. A copy of the **Notice of Sale** must also be mailed by certified mail *and* 1st class US mail to each *interested party*, as defined by statute, at least ten (10) days prior to the sale date.
 - 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.

Notice of Sale (Form 752A) *continued*

Please note the following:

- 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 11th day following the post office date stamped on the certified mail receipt(s).

EXAMPLE: Certified mail receipts are dated July 3, 2006. The earliest allowed sale date would be July 14, 2006 (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). When notification by newspaper notice is utilized, the sale date must also be included in the notice. All forms *must* list the *same* public sale date. If these dates do not match, the Title 42 will be *rejected*.

The completed lien documentation, after being reviewed by the Oklahoma Tax Commission, will be returned to the **Claimants Mailing Address** listed on the **Notice of Sale**.

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 and 1st 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/ATV's/utility 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 or Salvage Pools, as defined in 47 O.S. § 591.2.

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

1. 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.

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.

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, 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 a 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 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 amount of the 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, 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 must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted.

Statutory Authority [PROCESS 1] *continued*

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 specified pursuant to Section 953.2 of Title 47 of the Oklahoma Statutes.

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 contain:

- a. a statement that the notice is a Notice of Sale,
- b. the names of all interested parties known to the claimant,
- c. a description of the property to be sold,
- 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, 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, and
- f. the name, complete physical address and telephone number of the party foreclosing such lien. If the claimant is a business, then the name of the contact person must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted.

7. Such notice of sale shall be posted in three 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 on the day of posting. 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 Oklahoma 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, unless the property was abandoned and the claimant did not render any other service.

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 within 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. § 91B (Selected Provisions)

4. If a person claiming a special lien pursuant to this section fails to substantially comply with any of the requirements of this section, any interested party may proceed against the person claiming such lien for all damages arising there from, 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 a reasonable attorney fee.

42 O.S. § 91D

D. 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 Oklahoma 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 will apply instead of this section.

2. If personal property that otherwise would be covered by this section has been registered by the Oklahoma 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.

4. Salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes and class AA licensed wrecker operators in their capacity as wrecker operators shall not be subject to the provisions of this section. Salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes and class AA licensed wrecker operators shall be subject to Section 91A of this title.

42 O.S. § 91E

E. 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.

SECTION II / PART 1

PROCEDURAL INSTRUCTIONS [PROCESS 2]

PROCESS 2: Applicable to vehicles/ATV's/utility 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.

THE FOLLOWING INFORMATION IS TO SERVE AS AN OUTLINE OF THE GENERAL TITLE 42 POSSESSORY LIEN FILING PROCEDURES, HEREIN DESIGNATED AS PROCESS 2, ON VEHICLES, ATV'S, UTILITY VEHICLES, MANUFACTURED HOMES, COMMERCIAL TRAILERS, BOATS AND OUTBOARD MOTORS SUBJECT TO THIS PROCESS. OKLAHOMA STATUTORY LANGUAGE APPLICABLE TO PROCESS 2 IS REPRODUCED IN SECTION II / 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.

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, or boat/outboard motor registration number, 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 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 2 weeks for research and return mail time. If you do not receive any notification from the Research Section by that time, you may telephone 405/521-3770 (in state toll free number: 1-800-522-8165, extension 13770) to inquire as to the status of your request.

Ownership/Lienholder Determination [PROCESS 2] *continued*

Out of State Titling Jurisdiction

If the property is from another state, contact the Motor Vehicle Department, or equivalent, of that state 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 state is required to be submitted to OTC/MVD for review and approval as part of the complete filing packet.
- If the titling state 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 state'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 is not required under **PROCESS 2**.

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 available for public sale of the property is the day following publication of the final notice.

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 (3) three public places within the county of public sale of the property.

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.

Distribution of Notice

1. A copy of the **Notice of Sale** must be posted in three (3) public places within the county in which the property is to be sold at least ten (10) days prior to the sale date.
2. A copy of the **Notice of Sale** must also be mailed by certified mail to each *interested party*, as defined by statute, at least ten (10) days prior to the sale date.
 - Interested parties for **PROCESS 2** are outlined in 42 O.S. § 91A(A)(4). Refer to **Section II / 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.

Notice of Sale (Form 752A) *continued*

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.

- 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 11th day following the post office date stamped on the certified mail receipt(s).

EXAMPLE: Certified mail receipts are dated July 3, 2006. The earliest allowed sale date would be July 14, 2006 (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). When notification by newspaper notice is utilized, the sale date must also be included in the notice. All forms *must* list the *same* public sale date. If these dates do not match, the Title 42 will be *rejected*.

The completed lien documentation, after being reviewed by the Oklahoma Tax Commission, will be returned to the **Claimants Mailing Address** listed on the **Notice of Sale**.

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).

SECTION II / PART 2

STATUTORY AUTHORITY [PROCESS 2]

PROCESS 2: Applicable to vehicles/ATV's/utility vehicle/ 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 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. 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.
3. The lien may be foreclosed by a sale of such personal property upon the notice and in the manner following: The notice shall contain:
- 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,
 - c. the nature of the work, labor or service performed, material furnished, or the storage or rental arrangement, and the date thereof,
 - d. the time and place of sale, and
 - e. the name of the party, agent or attorney foreclosing such lien. If the claimant is a business, then the name of the contact person must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted.

4. a. Such notice shall be posted in three 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 on the day of posting. 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. The first date available for public sale of the vehicle is the day following publication of the final notice. 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 three 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 said 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 said lien has accrued, except as provided elsewhere in Oklahoma law.

Statutory Authority [PROCESS 2] continued

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. § 91D

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 Oklahoma Tax Commission or ~~with~~ 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 Oklahoma 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 Oklahoma 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 Oklahoma 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 ~~and~~.

9. This section applies to class AA licensed wrecker operators in their capacity as wrecker operators 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.

42 O.S. § 91E

E. 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.

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 of Record Owner

(2) _____
Name of Interested Party

(3) _____
Name of Interested Party

(4) _____
Name of Interested Party

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*): _____

Claimant's Physical Address: _____ Telephone Number: _____

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

Details of Service(s) Provided

Service Authorized By (*if applicable*): _____

Description and Date(s) of Work, Labor, Service Performed, including Material, and/or Storage or Space Rental arrangement (*continue on reverse, if necessary*):

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 of Repairs, Service, Storage and/or Rental: \$ _____

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.

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

(3) _____
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 1st 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

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

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.

Affidavit of Publication

Oklahoma Tax Commission / Motor Vehicle Division
Pursuant to the Provisions of 42 O.S. Chapter 2

To confirm interested party notification pursuant to the provisions of 42 O.S. § 91A. 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 _____ 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 and make of the property.
- 2.) Name of individual who may be contacted for information, as well as their telephone number 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