

## SB 543 and Mechanic's Liens FAQ's

1. What is the purpose of "excluding charges for repairs" in 70.003 (c)?

**Answer: Property Code 70.003(c) is the law covering storage liens. Under a "pure" storage lien, a possessory lienholder is not allowed to charge fees for repairs.**

2. Sec.70.004 (a) – If notice is not sent within five days, can a mechanic charge storage fees for five days or do they forfeit the right to all storage fees for missing the deadline?

**Answer: The mechanic does not forfeit the right to storage fees. If notice was sent after the five day requirement the notification required to be submitted to the county should indicate the amount of storage for no more than five days. If more than five days storage was indicated on the first notice, the mechanic would be required to re-send the first notice with no more than five days of storage fees indicated. County notification is still required.**

3. Can towing fees and notification fees be charged under 70.004 (e)?

**Answer: Towing fees are allowed under 70.003 (c), however notification, impoundment, preservation and storage fees under 70.004 (e) may only be charged if the VTR 265-S requirements are met.**

4. If storage, preservation, impoundment and/or notification fees are charged, are county tax assessor-collector's also required to send a second notice?

**Answer: No, they are only required to send one notice.**

5. If a garagekeeper fails to notify law enforcement within seven (7) days as required for abandoned vehicles are they allowed to charge storage fees?

**Answer: No, Transportation Code 683.032 (b) specifies storage fees can not be charged if law enforcement is not notified.**

6. Can a county tax office require proof of notification to law enforcement when storage fees are charged?

**Answer: That is a county decision.**

7. Sec. 70.006 (a) states notification must be sent "not later than the 30<sup>th</sup> day after the date on which the charges accrue." Does this mean they may give notice to the owner/lienholder anytime between the 1<sup>st</sup> & 30<sup>th</sup> day after the repairs are made?

**Answer: Yes.**

8. If the mechanic does not meet the 30 day notice requirement, is the lien still valid?

**Answer: Yes, they would still be allowed to file the mechanic lien provided required procedures are followed.**

9. Sec. 70.006 (a) does not specify a time limit to notify the TAC which may create problems.

**Answer: We will stipulate in Administrative Rules that a mechanic must notify the county tax office within 10 days of sending notice to the owner and/or lienholder. This will be department policy until added in Rule.**

10. If the county obtains an out-of-state mailing address for the owner or lienholder, will notifications be required to be sent by the mechanic and tax assessor-collector?

**Answer: Yes.**

11. Are counties required to send notices to out-of-state owner(s) and/or lienholder(s) if their name and address is provided by the mechanic?

**Answer: Yes, counties will be required to send notices to out-of-state owner(s) and lienholder(s) if name and addresses are provided.**

12. Sec. 70.006 (b-1) –If there is not a lienholder on the vehicle record, should the owner receive the same information required in the notice to the lienholder.

**Answer: Yes.**

13. Sec. 70.006 (b-1) (3) – What number, if any, will a mechanic who does not have an Employer Identification Number (EIN) or taxpayer identification number (TIN) submit?

**Answer: If an EIN or TIN is not available the Social Security Number should be provided.**

14. Should a written statement be required if a mechanic says they do not have an EIN or Social Security Number?

**Answer: Yes. The written statement should be retained by the county along with the certified receipts.**

15. Will VTR be required to redact the EIN or TIN from title histories?

**Answer: The EIN or TIN must be submitted to the county by the mechanic. The county must include it in the notification. As the notification letter will not be submitted to VTR the information will not be part of the title history.**

16. Sec. 70.006 (b-1) (4) –If the mechanic does not have a signed work order is this process available?

**Answer: No.**

17. If not what options would a mechanic have?

**Answer: TAC Hearing or Court Order.**

18. Sec. 70.006 (b-2) states if the mechanic doesn't comply with this section the lien on the title is "superior" to the mechanic lien. Does this mean if any required information is not provided in the notice they may not sell the vehicle until the notice is resent with the proper information?

**Answer: Yes.**

19. Sec. 70.006 (f) states the mechanic may sell the vehicle if charges are not paid by the 31<sup>st</sup> day. Is this after the mechanic or the county notice?

**Answer: After county notification. This will be clarified in Administrative Rule.**

20. Sec. 70.006 (g) – Same question as above, is the 30 day time period an owner/lienholder may inspect the vehicle based on the mechanic or TAC notice?

**Answer: County notification. This will be clarified in Administrative Rule.**

21. How will a mechanic know what date the county sent notification in order to hold the sale on the proper date?

**Answer: Counties may choose to provide a courtesy copy “cc” to the mechanic on the letter to the owner and/or lienholder. If the county chooses not to “cc” the mechanic, the mechanic may contact the county for the information, or begin the 30 day period 10 days after sending notice to the county.**

22. If the mechanic sells the vehicle to a resident that lives in a different county than the county that sent the notice, must the county processing the transfer of ownership contact the county that sent the notification to verify?

**Answer: Each county should make this determination.**

23. If an owner reports that they attempted to retrieve the vehicle or call the mechanic and reports to the county that the address and/or telephone number of the mechanic were fraudulent (telephone number incorrect or disconnected, address is a vacant lot or title service) what action would the county take?

**Answer: The mechanic would be required to submit the accurate information to the county tax assessor-collector with an additional \$25 fee. Both the mechanic and tax office would be required to re-send notices with the correct information.**

24. The notification requires the “legal name” of the person that holds the lien, is this the legal name of the individual or the mechanic shop?

**Answer: If the mechanic shop has been issued an EIN the legal name of the shop should be shown.**

25. Are counties required to submit copies of the certified mail, returned receipts (PS 3800 & PS 3811)?

**Answer: No, just as we don’t require law enforcement to submit their notification receipts, neither should the county.**

26. Sec. 70.006 (c) – Are counties required to post a notice in the newspaper when the owner/lienholder is unknown.

**Answer: No.**

27. Where should the \$25 fee be deposited?

**Answer: Contact your county attorney or auditor for guidance.**

28. If the work order includes an address or a name and address other than the owner or lienholder on the motor vehicle record must notifications be sent to this person as well?

**Answer: Yes.**

29. If yes, are both the mechanic and tax office required to send notice?

**Answer: Yes.**

30. What is the mechanic required to provide the county tax office?

**Answer: The mechanic must provide the following items:**

**1. \$25 fee**  
**2. Copy of the notice the mechanic sent to the owner and/or lienholder which includes the following information:**

- (a) physical address where the vehicle was repaired**
- (b) legal name of the person who hold the lien**
- (c) taxpayer identification number or employer identification number**
- (d) signed copy of the work order**
- (e) amount of fees due**

31. Does this procedure only apply to vehicles left at a mechanic shop on September 1, 2009 or later?

**Answer: Yes.**

32. Do the changes affect mechanic liens foreclosed on by licensed franchise dealerships and/or used car dealerships?

**Answer: The new procedures do not apply to licensed franchise dealers who will continue using the previous procedures. The new procedures apply to all other entities including used car dealerships.**

33. If a mechanic acquired a vehicle on or after September 1, 2009, but sells the vehicle at public auction to an innocent purchaser using the previous procedure what options are available?

**Answer: Innocent purchasers have the standard options of a Tax Assessor-Collector Hearing or Court Order. If the vehicle is returned to the mechanic, the mechanic would be required to start the procedure over again before re-selling at public auction.**

34. If a mechanic accepts partial payment during the 30 days after charges accrue and the mechanic shop retains possession of the vehicle, does this change the timeline allowing the customer additional time to pay the bill before the shop has to mail the lien notification?

**Answer: Regardless of when the notice is sent the mechanic must provide the customer 30 days to pay the fees due and retrieve the vehicle.**

35. Do the charges for repairs begin to accrue when the work order is signed or when the repairs are completed?

**Answer: When the repairs are completed.**

36. Is a mechanic required to pay the \$25 administrative fee if the mechanic must place a newspaper advertisement because they are unable to obtain the owner and/or lienholder name and/or address?

**Answer: Yes, the \$25 administrative fee is required for all mechanic liens with the exception of franchise dealers.**

37. Can a mechanic hire a title service to notify the owners, lienholders and county tax office? If yes, can the title service sign the notification letters for the mechanic?

**Answer: Yes to both.**