

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1793

By: Representative Rushing

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING LIEN PRIORITY FOR
VEHICLE REPAIRMEN; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING LIEN PRIORITY
FOR VEHICLE REPAIRMEN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-45-202(b), concerning priority of lien, is amended to read as follows:

(b) The lien provided for in this subchapter ~~shall be:~~

(1) Is subject to the perfected lien of a financial institution or vendor of automobiles, trucks, tractors, and all other motor-propelled conveyances for any claim for balance of purchase money due ~~thereon~~ to the financial institution or the vendor; and

(2) Shall not take precedence over or be superior to the perfected lien of a financial institution or vendor of automobiles, trucks, tractors, and all other motor propelled conveyances if a valid authorization for repossession is presented by the holder of the purchase money lien.

SECTION 2. Arkansas Code § 18-45-202, concerning priority of lien, is amended to add an additional subsection to read as follows:

(d) As used in this section, "valid authorization for repossession" means a motor vehicle purchase or lease agreement entered into by the leaseholder and a financial institution or vendor that:

(1) Involves the sale or purchase of automobiles, trucks,



tractors, and all other motor propelled conveyances; and

(2) Contains a conspicuous written provision in boldfaced type that authorizes the repossession of the motor vehicle if the purchase or lease agreement is in default.

SECTION 3. Arkansas Code § 18-45-204(c), concerning the procedure for sale of property possessed by lienholder is repealed.

~~(c) It shall be the duty of the lienholder, besides giving notice as required in subsection (a) of this section, to make demand for the debt before making the sale by registered letter addressed to the last known residence or post office address of the debtor.~~

SECTION 4. Arkansas Code § 18-45-204(d), concerning the procedure for sale of property possessed by lienholder, is amended to read as follows:

(d) In the lienholder's dealings with the property held by him or her, the lienholder shall act in good faith with the debtor or purchase money lienholder and shall be responsible for any abuse of the power and authority vested in him or her by the provisions of this subchapter.

SECTION 5. Arkansas Code § 18-45-204(e), concerning the procedure for sale of property possessed by a lienholder, is repealed.

~~(e) The provisions of § 27-50-1101 shall govern sales of vehicles subject to the registration laws of this state.~~

SECTION 6. Arkansas Code Title 18, Chapter 45, Subchapter 2, is amended to add additional sections to read as follows:

18-45-208. Notice to motor vehicle lienholder.

(a)(1) The lienholder shall send the leaseholder and financial institution or vendor of automobiles, trucks, tractors, and all other motor propelled conveyances notice of the completion of repairs and make demand for payment two (2) days after the work is completed.

(b) If the lienholder has not received payment within five (5) days from the date the lienholder sent the notice required under subdivision (a)(1) of this section, the lienholder shall:

(A) Determine whether there is a financial institution or vendor with a perfected purchase money lien by contacting the Secretary of

State; and

(B) Notify the financial institution or vendor that the lienholder has possession of and intends to sell the motor vehicle to satisfy his or her lien if the motor vehicle is not claimed.

(c) The notice requirements under this section shall be given by certified mail, return receipt requested and sent to the last known address or post office box of the leaseholder and financial institution or vendor of automobiles, trucks, tractors, and all other motor propelled conveyances.

18-45-209. Valid authorization for repossession.

(a) Upon presentation of a valid authorization for repossession of a motor vehicle subject to the registration laws of this state by a financial institution or vendor to the lienholder, the motor vehicle shall be surrendered to the financial institution or vendor and the lienholder shall have a cause of action for compensation for material or labor against the leaseholder of the motor vehicle.

(b) As used in this section, "valid authorization for repossession" means a motor vehicle purchase or lease agreement entered into by the leaseholder and a financial institution or vendor that:

(1) Involves the sale or purchase of automobiles, trucks, tractors, and all other motor propelled conveyances; and

(2) Contains a conspicuous written provision in boldfaced type that authorizes the repossession of the motor vehicle if the purchase or lease agreement is in default.

SECTION 7. Arkansas Code § 27-50-1101(a)(1)(F), concerning the nonconsensual towing of a vehicle, implement, or piece of machinery, is repealed.

~~(F) Unless other arrangements have been made with a repair business, a vehicle, implement, or piece of machinery on the premises of a repair business shall be deemed abandoned if either:~~

~~(i) The vehicle, implement, or piece of machinery is unclaimed by the owner within forty five (45) days; or~~

~~(ii) The debt is not paid within forty five (45) days from the time the repair work is complete.~~

SECTION 8. Arkansas Code § 27-50-1208(e)(2), concerning the nonconsensual towing of a vehicle, implement, or piece of machinery, is repealed.

~~(2) A notice to an owner of a vehicle deemed abandoned on the premises of an automobile repair facility under § 27-50-1101 shall also advise that the automobile repair person holds an absolute lien on the vehicle under § 18-45-201 et seq.~~