

Boat Titling & Registration

Statutory Lien Foreclosures



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Statutory Lien Foreclosures

Background



- A Statutory Lien Foreclosure happens when a vessel or outboard motor is left at a:
 - at a tow/wrecker service, or
 - at a mechanic's shop for service, or
 - at a storage facility (like a marina)
 and the fees for services rendered at the business are not paid.

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Background – Cont'd



- The Statutory Lien Foreclosure:
 - Does **NOT** place a lien on the title of a vessel or outboard motor to prevent the owner of record from selling the asset prior to releasing the lien.
 - **DOES** allow the business that has the asset in their possession to sell the asset to recoup their losses for non-payment of services rendered.

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Eligibility Requirements



- The asset **must** be in the business's possession.
- The business **must** have a written signed tow ticket/agreement/contract for towing, repair, or storage, as applicable.
- The asset **must** have a serial number (HIN or MIN).
 - If no serial number can be located, the business must make arrangements to obtain a Game Warden inspection before proceeding with the statutory lien foreclosure.

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2. Foreclosure Notice(s)

- Wrecker, Mechanic, and Storage Facilities are required to send two notices to:
 - The person listed on the work order/contract/agreement*, and
 - The owner(s) of record**, and
 - The lien holder of record (if any)

*If the person (and address) listed on the work order/contract/agreement matches the owner of record for the boat and/or outboard motor, as applicable, only two notices are required to be sent to that person.

**Separate notices must also be sent if the owner(s) of record of the outboard motor are different from the boat.

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2. Foreclosure Notice(s) – Cont'd

- The first notice, advising of monies owed for services rendered, must be sent when the charges are due.*
 - *For assets that were towed to a storage facility by a Wrecker Service under the provisions of state law or city ordinance the first notice must be sent **by the fifth day** the asset is in their possession. (For assets registered outside of Texas, notice must be sent by the 14th day possession is obtained.)
- All notices must be sent by certified mail, return receipt requested.

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2. Foreclosure Notice(s) – Cont'd

- The second notice must be sent **within 30 days** after the first notification of charges due is sent. (Same day, or the next day, or next..., but not later than 30 days after the first letter).
- The notice must include:
 1. The amount of charges due, and
 2. A request for payment, and
 3. A statement disclosing the facilities intent to sell at public sale if not paid in full within 30 days.
- All notices must be sent by certified mail, return receipt requested.

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3. Filing with Local TAC Office

- A copy of the second notice must be filed with the businesses local county tax assessor-collector's office in order to be eligible to sell the vessel or outboard motor at a public sale.
- The dated receipt, or other evidence, provided by the county office at the time of filing must be submitted to TPWD, with all other required documentation, in order to complete the statutory lien foreclosure and transfer ownership of the asset.
- The auction may take place **on or after** the 31st day after the second notice is filed with the county tax assessor-collector's office.

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4. Public Sale Notice – Placement & Content

- The business must publish a notice of public sale in a newspaper of general circulation.
- The notice must contain:
 1. Date & Time of Public Sale
 2. Address of Public Sale
 3. Description of asset (make, TX number or HIN, and year built)
 4. Terms of Public Sale
- If the proceeds of the sale are greater than the amount of the charges, then the business (the statutory lien holder) must pay the excess to the person entitled to them.
- If the person entitled to the excess is not known or has moved from this state or the county in which the lien accrued, the business must pay the excess to the county treasurer of the county in which the lien accrued.

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5. Forms

- The business is required to complete and submit, with all other required documentation, the following forms:
 - **PWD 309A** - Affidavit of Statutory Lien Foreclosure
 - Must be completed in full and notarized (twice)
 - **PWD 143** (vessel) / **PWD 144** (outboard motor)
 - Must be completed by the seller and include the same sales price listed on the PWD 309A (sales price should not include the trailer)
 - **PWD 504** – Verification of the serial number
 - Separate forms must be completed for each asset

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5. Forms – Cont'd

Where can I get the forms I need?

- Forms are available:
 - On the TPWD website (listed in order by form # at: <https://tpwd.texas.gov/fishboat/boat/forms/>)
 - Can be obtained at any TPWD Law Enforcement office or participating Tax Assessor-Collector office. A list of office locations can be found on the TPWD website at: https://tpwd.texas.gov/fishboat/boat/owner/office_locations/index.phtml

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6. Asset Transfer

- The statutory lien holder (seller/business) is responsible for completing all forms/attachments.
- They are encouraged (but not required) to either meet the purchaser at a TPWD or participating county tax office or submit the transaction on the purchaser's behalf utilizing either:
 - PWD 581 – Letter of Authorization, or
 - PWD 1055 – Limited Power of Attorney

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Where Can I Go For Help? – Cont'd



3. If you have questions at any point in the process, contact TPWD:

- By phone at 1-800-262-8755 or 512-389-4828 (press '0' at the automated menu to speak directly with a Boat Information agent). Agents are available 8:00 am – 5:00 pm, Mon. – Fri.
- By email at BoatReg@tpwd.texas.gov. An agent will respond to your email inquiry within one to two business days of receipt.

Legislative Update

Bills that may have impact:



- **HB 2975** - Removes the requirement to file a copy of the second notice for motorboats, vessels, and outboard motors with the local Tax Assessor-Collector office.
 - *Current status:* Referred to House Business & Industry Committee.
- **SB 1185** – Relating to the towing of certain property from a self-service storage facility for disposition by a vehicle storage facility.
 - *Current status:* Left pending in Senate Business & Industry Committee.
- **HB 3530** - Relating to the towing of certain property from a self-service storage facility for disposition by a vehicle storage facility.
 - *Current status:* House Committee report sent to Local & Consent Calendar.



• Questions?



Thank you!