



# AFFIDAVIT OF STATUTORY LIEN FORECLOSURE SALE FOR STORAGE OR MECHANIC'S LIEN (PWD 309A)

This form is completed when transferring ownership to the purchaser of a vessel and/or outboard motor sold under a storage or mechanic's lien (due to non payment of charges). The form must be completed by the storage or mechanic's facility and include their notarized signature. For a description of each step and the additional forms required, see the Transfer of Title Checklist – Required Documents and Instructions for Statutory Foreclosure Lien Form & Process listed on pages three, four, and five. (Review the storage/rental/lease agreement to determine which lien foreclosure procedure to use. If the agreement references 'self-service' or 'chapter 59' then you must use the Affidavit of Statutory Lien Foreclosure Sale by Self-Service Storage Facility form PWD 309B.)

### A. THE STATUTORY FORECLOSURE LIEN PROCESS CANNOT BE USED IF:

- (1) You do not have a written, signed agreement/contract for storage/repair/wrecker service;
- (2) You cannot obtain owner and lienholder information from TPWD or comparable agency from another state [unless you have complied with Texas Property Code Sections 70.004(c) and 70.006(c)];
- (3) You are unable to obtain a pencil tracing, legible photograph, or game warden verification of the hull identification number (HIN) and/or outboard motor identification number (MIN); or
- (4) You have not followed all the required statutory procedures for the foreclosure sale.

### WARNING: FALSIFYING INFORMATION ON DOCUMENTS IS A PUNISHABLE OFFENSE.

Texas Penal Code, Section 37.10. Any person who knowingly makes a false entry in or false alteration of a governmental record is guilty of a felony of the third degree punishable by confinement in jail for any term of not more than 10 years or less than 2 years and punished by a fine not to exceed \$10,000.

### B. GENERAL INFORMATION.

(1) This lien is for the unpaid amount due for (check which apply):  STORAGE  REPAIR  WRECKER SERVICE

(2) This information is about the foreclosure of a:  VESSEL  OUTBOARD MOTOR

(3) Vessel Description: \_\_\_\_\_

Make	Year Built	Length
HIN/MIN/Serial Number	State Registration Number	Horsepower

(4) Outboard Motor Description: \_\_\_\_\_

Make	Year Built	
HIN/MIN/Serial Number	State Registration Number	Horsepower

(5) Name and address of person(s) shown on the storage agreement, work order, or authorization to tow:

Name	Street Address	City, State and Zip
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### C. STORAGE OR MECHANIC INFORMATION.

(1) Date and location left for storage or repair: \_\_\_\_\_

Date	Name of Location
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(2) Physical address of storage or mechanic's facility: \_\_\_\_\_

Street Address	City, State and Zip
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Mailing address (if different): \_\_\_\_\_

Street Address	City, State and Zip
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### D. TITLE/REGISTRATION OWNER VERIFICATION.

Title/registration owner verification in writing from TPWD or comparable agency from another state is attached.

Or

Documentation of compliance with Texas Property Code, Sections 70.004(c) and 70.006(c) is attached.

### E. FORECLOSURE NOTICES AND PUBLIC SALE.

(1) Date the person shown on storage/repair agreement, and all owner(s) and lienholder(s) of record were given first notice of; (i) amount of charges, and (ii) request for payment under Texas Property Code, Section 70.006(a): \_\_\_\_\_

(2) Date the person shown on storage/repair agreement, and all owner(s) and lienholder(s) of record were given second notice of (i) amount of unpaid charges, and (ii) request for payment under Texas Property Code, Section 70.006(a): \_\_\_\_\_

(3) Date the copy of the second notice(s) to the person shown on storage/repair agreement, and all owner(s) and lienholder(s) of record were filed with your local tax assessor-collector office: \_\_\_\_\_

(4) Name of newspaper and publication date of foreclosure sale: \_\_\_\_\_  
Newspaper Name Publication Date

(5) Location of foreclosure sale and date it was held:

\_\_\_\_\_  
Street Address City, State and Zip Date

**F. AFFIDAVIT OF REPRESENTATIVE OF STATUTORY LIENHOLDER.**

As a duly authorized representative of the undersigned statutory lienholder, I certify that the following facts are true and correct:

- (1) The vessel and/or outboard motor described above was left for storage and/or repair;
- (2) The storage or mechanic's facility sent notice to the person who left the vessel and/or outboard motor for storage or repair, the recorded owner(s) and the lienholder(s) stating the amount of charges due and a request for payment, as required by statute;
- (3) The storage or mechanic's facility sent a second notice of intent to sell to the person who left the vessel and/or outboard motor for storage or repair, the recorded owner(s) and the lienholder(s) not later than 30 days after the first notification, as required by statute, or complied with alternative notice procedures in accordance with Texas Property Code, Sections 70.004(c) and 70.006(c); and
- (4) All other statutory lien sale procedures have been complied with.

In consideration of the issuance of a Certificate of Title being applied for, the statutory lienholder agrees to indemnify and hold harmless Texas Parks and Wildlife Department, its employees and officers from and against all claims, demands, and judgments because of or in connection with the issuance of the requested Certificate of Title for the above described vessel or outboard motor.

\_\_\_\_\_  
Name of Storage or Mechanic's Facility Street Address City, State and Zip

\_\_\_\_\_  
Mailing Address (if different) Street Address City, State and Zip

Signature of Affiant (representative of Storage or Mechanic's Facility): \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Month Year

NOTARY SEAL

\_\_\_\_\_ Notary Public, \_\_\_\_\_ County, Texas

**G. BILL OF SALE [Sales price must be the same as shown on the PWD 143/144. Do not include price of trailer.]**

By virtue of the Public Sale outlined above and in accordance with the laws of the State of Texas, I, as representative of the undersigned statutory lienholder, for the sum of \$\_\_\_\_\_, hereby sell and assign the above described vessel and/or outboard motor to the highest bidder at said sale, namely:

\_\_\_\_\_  
Name of Purchaser Street Address City, State and Zip

Signature of Seller or Agent (representative of Storage Facility) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Month Year

NOTARY SEAL

\_\_\_\_\_ Notary Public, \_\_\_\_\_ County, Texas

**H. TRANSFER TITLE OF VESSEL AND/OR OUTBOARD MOTOR.**

As the statutory lien holder, it is your responsibility to ensure all required forms and attachments are present and completed correctly. (See the Transfer of Title Checklist – Required Documents on the next page for a complete list of the required forms and attachments to submit.)

For additional information on submitting the transaction, see Step Eight (Section H) – Transfer Title of Vessel and/or Outboard Motor on page five.

If all required documentation is not provided, the asset will not be titled. Tax is due within 20 working days of the date of sale. If not paid within that time, penalty and interest will accrue.

Texas Parks and Wildlife Department maintains the information collected through this form. With few exceptions, you are entitled to be informed about the information we collect. Under Sections 552.021 and 552.023 of the Texas Government Code, you are also entitled to receive and review the information. Under Section 559.004, you are also entitled to have this information corrected.

**AFFIDAVIT OF STATUTORY LIEN FORECLOSURE SALE FOR STORAGE OR MECHANIC'S LIEN (PWD 309A)**  
**Transfer of Title Checklist – Required Documents**

Use the following checklist to ensure all required forms and attachments are submitted to transfer title of the vessel and/or outboard motor:

- 1)  **PWD 309A** - Affidavit of Statutory Lien Foreclosure Sale for Storage or Mechanic's Lien for the vessel and/or outboard motor (pages one and two of this form);
- 2)  **PWD 143** - Vessel/Boat Application, and/or **PWD 144** - Outboard Motor Application, as appropriate; Application form(s) must be completed in full with the same purchaser name, address, sales date and sales price as shown on the second page of this form (PWD 309A – Affidavit of Statutory Lien Foreclosure Sale for Storage - Mechanic's Lien). The storage or mechanic's facility must sign and date the application form(s) as the seller.

If the storage or mechanic's facility receives no bids, or is the highest or only bidder on the vessel and/or outboard motor, the purchase price is considered to be the full amount of the charges due to the facility when calculating sales tax owed. List the amount of charges due in the sales price section of the PWD 143 and/or PWD 144 (section N1), and PWD 309A. When a licensed marine dealer purchases a vessel and/or outboard motor at auction, the dealer must pay sales tax if they do not indicate that the vessel and/or outboard motor is for "resale purposes only" on the PWD 143 and/or PWD 144.

- 3)  **PWD 504** - Verification of Vessel or Outboard Motor Serial Number; A pencil tracing or legible photograph of the hull identification number/motor identification number/serial number on form PWD 504. If the vessel or outboard motor does not have a serial number, inspection by a Game Warden is required.
- 4)  Photocopy of entire signed agreement/contract for storage/repair/wrecker service;
- 5)  Photocopy of newspaper publication of public (foreclosure) sale;
- 6)  First notice of charges due to the person shown on the storage/repair agreement, and all owner(s)\* and lienholder(s)\* under Texas Property Code, Section 70.006(a), as evidenced by the following:

- Photocopy of notice(s);
- Evidence of mailing certified mail with return receipt requested. **One** of the following must be submitted:
  - The signed, certified mail return receipt PS form 3811 (original or photocopy of green card); or
  - Evidence of electronic confirmation of mailing by certified mail, return receipt requested from the USPS website;
- or
- Unopened certified letters returned by the post office as undeliverable, unclaimed, or no forwarding address.

**OR**

- \* Notice by newspaper publication if unable to obtain title/registration owner verification under Texas Property Code, Sections 70.004(c) and 70.006(c) [see item #9) Title/Registration Owner Verification requirements below].
- 7)  Second notice of charges due to the person shown on the storage/repair agreement, and all owner(s)\* and lienholder(s)\* under Texas Property Code, Section 70.006(a), as evidenced by the following:

- Photocopy of notice(s);
- Evidence of mailing certified mail with return receipt requested. **One** of the following must be submitted:
  - The signed, certified mail return receipt PS form 3811 (original or photocopy of green card); or
  - Evidence of electronic confirmation of mailing by certified mail, return receipt requested from the USPS website;
- or
- Unopened certified letters returned by the post office as undeliverable, unclaimed, or no forwarding address.

**OR**

- \* Notice by newspaper publication if unable to obtain title/registration owner verification under Texas Property Code, Sections 70.004(c) and 70.006(c) [see item #9) Title/Registration Owner Verification requirements below].
- 8)  Receipt or other evidence from your local tax assessor-collector office confirming filing of the second notice(s).

- 9)  Title/Registration Owner Verification, as evidenced by **one** of the following:

- Written verification from TPWD or state agency of another state.

**OR**

- Evidence the identity and/or address of the last known owner(s) and lienholder(s) cannot be determined. The following items must be submitted:

- A photocopy of the published notice.
- The original response letter from the appropriate governmental entity advising they are either unwilling or unable to provide information on the last known owner/lienholder of record, pursuant to Section 70.004(c)(3)(A) or 70.006(c)(2)(A); or
- A statement on a signed **PWD 314** Affidavit of Fact noting that either no response from the governmental entity was received on or before the 21st day after the request to the governmental entity was sent or that the identity and/or address of the last known owner(s) of record and any lienholder(s) of record cannot be determined; and
  - A photocopy of the written request that was submitted to the proper governmental entity as a request under Section 70.004(c)(2) or 70.006(c)(1);
  - Evidence of mailing certified mail with return receipt requested. **One** of the following must be submitted:
    - The signed, certified mail return receipt PS form 3811 (original or photocopy of green card); or
    - Evidence of electronic confirmation of mailing by certified mail, return receipt requested from the USPS website; or
    - Unopened certified letters returned by post office as undeliverable, unclaimed, or no forwarding address.

**AFFIDAVIT OF STATUTORY LIEN FORECLOSURE SALE FOR STORAGE OR MECHANIC'S LIEN (PWD 309A)  
- Instructions for Statutory Foreclosure Lien Form & Process -**

**STEP ONE (Section A) – THE STATUTORY FORECLOSURE LIEN PROCESS CANNOT BE USED IF:**

Determine if you (as the statutory lien holder) can use this process to foreclose on the boat and/or motor in your possession. If you do not have one of the items listed, or are unable to perform one of the steps involved, you **cannot** use this process.

**STEP TWO (Section B) – GENERAL INFORMATION.**

- (1) Select the service for which unpaid charges have accrued.
- (2) Select the asset type (vessel and/or outboard motor) that is being foreclosed.
- (3) If a vessel is being foreclosed, include the complete description.
- (4) If an outboard motor is being foreclosed, include the complete description.
- (5) List the name and complete address of the person who appears on the signed storage agreement, work order or authorization to tow.

**STEP THREE (Section C) – STORAGE OR MECHANIC INFORMATION.**

- (1) List the date the vessel and/or outboard motor were left for storage or repair. (For wrecker/tow service, list the date the vessel and/or outboard motor were taken into possession.)
- (2) List the name and complete address of the storage or mechanic's facility, and the mailing address if it differs from the physical location address.

**STEP FOUR (Section D) – TITLE/REGISTRATION OWNER VERIFICATION.**

You must obtain the title/registration owner verification in writing from TPWD\* or comparable agency from another state. The verification must be either a printout by the state agency or a document on the state agency's letterhead, describing the vessel/outboard motor and listing the owner(s) and the lienholder(s) names and addresses.

\* You can obtain Owner of Record Information free from TPWD through:

- (1) The agency web site at [www.tpwd.state.tx.us/fishboat/boat/](http://www.tpwd.state.tx.us/fishboat/boat/) (select Request Ownership Information listed under Boat Ownership). You will need to provide your name and address and either the TX number or serial number; or
- (2) At a TPWD or participating Tax Assessor Collector office by submitting an Ownership/Lien Holder Information Printout request (form PWD 763); or
- (3) Through the mail by submitting an Ownership/Lien Holder Information Printout request (form PWD 763).

If this process is used, select "Title/registration owner verification in writing from TPWD or comparable agency from another state is attached".

In the alternative, if you are unable to obtain the above information regarding current owner(s) and lienholder(s) and/or the identity/address of the last known owner(s) and lienholder(s) cannot be determined, you must submit evidence that you have provided notice by publication to the owner(s) and lienholder(s) in accordance with Texas Property Code, Sections 70.004(c) and 70.006(c). The notice must be published once in a newspaper of general circulation in the county in which the vessel/outboard motor is stored. If such notice is used, appropriate evidence must be submitted to TPWD. [See the Transfer of Title Checklist – Required Documents, item #9) for acceptable forms of documented evidence.]

If this process is used, select "Documentation of compliance with Texas Property Code, Sections 70.004(c) and 70.006(c) is attached".

**STEP FIVE (Section E) – FORECLOSURE NOTICES AND PUBLIC SALE.**

**(1) FIRST NOTIFICATION OF CHARGES DUE.**

Under Texas Property Code, Section 70.006(a), notification must be mailed to the person shown on the storage/repair agreement and all owner(s)\* and lienholder(s)\* of the vessel or outboard motor **when charges are due**. The notice must include the amount of charges due and a request for payment. All notifications must be sent certified mail, return receipt requested, to their respective addresses according to the storage/repair agreement and TPWD records or other state's records. Evidence of mailing must be provided to TPWD. [See the Transfer of Title Checklist – Required Documents, item #6) for acceptable forms of documented evidence.]

List the date the first notice(s) were mailed to the person shown on the storage/repair agreement, and to all recorded owner(s) and lienholder(s).

\* Notice by newspaper publication may be given if unable to obtain title/registration owner verification [see Step Four (Section D) - Title/Registration Owner Verification (second paragraph) above].

**NOTE: FOR WRECKER/TOW SERVICE** – Under Texas Property Code, Section 70.004(a), a holder of a lien on a vessel/outboard motor, who obtains possession of the vessel/outboard motor under the provisions of state law or city ordinance, must send notification not later than the fifth day after possession. If the vessel/outboard motor is registered outside Texas, the notice must be sent not later than the 14th day after possession.

**STEP FIVE (Section E) – FORECLOSURE NOTICES AND PUBLIC SALE. (Continued)**

## **(2) SECOND NOTIFICATION OF CHARGES DUE.**

Under Texas Property Code, Section 70.006(a), a second notification must be mailed to the person shown on the storage/repair agreement and all owner(s)\* and lienholder(s)\* of the vessel or outboard motor **not later than 30 days after the first notification of charges due** is sent. The notice must include the amount of unpaid charges due and a request for payment. All notifications must be sent certified mail, return receipt requested, to their respective addresses according to the storage/repair agreement and TPWD records or other state's records. It is preferable, but not required, that the notice disclose the facility's intent to sell at public sale if not paid in full within 30 days. Evidence of mailing must be provided to TPWD. [See the Transfer of Title Checklist – Required Documents, item #6) for acceptable forms of documented evidence.]

List the date the second notice(s) were mailed to the person shown on the storage/repair agreement, and to all recorded owner(s) and lienholder(s).

\* Notice by newspaper publication may be given if unable to obtain title/registration owner verification [see Step Four (Section D) - Title/Registration Owner Verification (second paragraph) above].

## **(3) FILING NOTICE WITH YOUR LOCAL TAX ASSESSOR-COLLECTOR.**

Under Texas Property Code, Section 70.006(f), the possessory lien holder must file a copy of the second notice(s) of charges due with their 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.

## **(4) NEWSPAPER PUBLICATION OF PUBLIC (FORECLOSURE) SALE.**

The notice advertising the sale must contain a general description (make, TX or serial number, year built) of the property and the time, place and terms of the sale. The advertisement must be published in a newspaper of general circulation. (A copy or proof of the publication must be submitted. Acceptable proof of publication is written documentation provided by the newspaper that provides the date(s) and contents of the publication.)

List the name of the newspaper in which the notice advertising the sale was posted and the date of publication.

## **(5) PUBLIC (FORECLOSURE) SALE.**

Under Texas Property Code, Section 70.006(f), if the charges are not paid before the 31<sup>st</sup> day after the date a copy of the second notice is filed with the county tax assessor-collector's office, the statutory lienholder may sell the vessel/outboard motor at a public sale and apply the proceeds to the charges. If the proceeds of the sale are greater than the amount of the charges, then the statutory lienholder must pay the excess to the person entitled to them. In accordance with Texas Property Code, Section 70.007, 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 statutory lienholder shall pay it to the county treasurer of the county in which the lien accrued. If the excess is not claimed within two years of the date it was paid to the treasurer, the excess becomes a part of the county's general fund.

List the address of the location at which the sale was held and the date of the sale.

## **STEP SIX (Section F) – AFFIDAVIT OF REPRESENTATIVE OF STATUTORY LIENHOLDER.**

The authorized representative of the statutory lienholder must complete the affidavit in this section attesting that they have complied with all required procedures for the statutory foreclosure lien. The name and complete address of the storage or mechanic's facility, and the mailing address if it differs from the physical location address, must be listed and the signature of the authorized representative must be notarized.

## **STEP SEVEN (Section G) – BILL OF SALE.**

The authorized representative of the statutory lienholder must complete the bill of sale, including the purchase amount, the purchaser's name and complete address. The sales price must be the same as shown on the PWD 143/144 (do not include the price of the trailer). The signature of the authorized representative must be notarized.

## **STEP EIGHT (Section H) – TRANSFER TITLE OF VESSEL AND/OR OUTBOARD MOTOR.**

As the statutory lien holder, it is your responsibility to ensure all required forms and attachments are present and completed correctly. In addition to pages one and two of this form, the following TPWD forms are required:

- (1) PWD 143 – Vessel/Boat Application and/or PWD 144 – Outboard Motor Application, as applicable; and
- (2) PWD 504 – Verification of Vessel or Outboard Motor Serial Number.

[See the Transfer of Title Checklist – Required Documents on page three of this form for a complete list of the required forms and attachments to submit.]

It is strongly recommended that you either:

- (3) meet the purchaser at a TPWD office or participating county tax office to complete the transaction to ensure that the required documents are submitted; or
- (4) submit all documentation, with the required title, registration and sales tax fees, to your county tax collector or TPWD on behalf of the purchaser in case of any unresolved issues. To submit the transaction on behalf of the purchaser, you will need to have the purchaser sign a completed "Letter of Authorization (PWD 581)" form and the PWD 143 and/or PWD 144, or a "Limited Power of Attorney (PWD 1055)" in order to sign for the purchaser.

If all required documentation is not provided, the asset will not be titled. Tax is due within 20 working days of the date of sale. If not paid within that time, penalty and interest will accrue.