



## Affidavit of Statutory Lien Foreclosure Sale by Self-Service Storage Facility (PWD 309B)

This form is completed when transferring ownership to the purchaser of a vessel and/or outboard motor sold under a self-service storage lien (due to non-payment of charges). The form must be completed by the self-service storage 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, five, and six. *(Review the storage agreement to determine which lien foreclosure procedure to use.)*

### A. The Statutory Foreclosure Lien Process Cannot Be Used If:

- (1) You do not have a written, signed rental agreement (or lease) that contains a self-service storage lien;
- (2) You cannot obtain owner and lienholder information from TPWD or comparable agency from another state [unless you have complied with Texas Property Code Section 59.0445(d)];
- (3) You are unable to obtain a 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, Chapter 37, 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 punishable by a fine not to exceed \$10,000. I hereby certify that all statements in this document are true and correct to the best of my knowledge and belief.**

### B. General Information.

- (1) This information is about the foreclosure of a: ☐ VESSEL ☐ OUTBOARD MOTOR

(2) Vessel Description: \_\_\_\_\_  
Make Year Built Length

\_\_\_\_\_ HIN/Serial Number State Registration Number Horsepower

(3) Outboard Motor Description: \_\_\_\_\_  
Make Year Built

\_\_\_\_\_ MIN/Serial Number State Registration Number Horsepower

- (4) Name and address of tenant(s) who rented the storage unit where the vessel or outboard motor was found:

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

### C. Storage Information.

- (1) Location Name and Date of storage agreement (lease): \_\_\_\_\_  
Location Name Date

(2) Location of storage facility: \_\_\_\_\_  
Street Address City, State and Zip

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

- (3) The storage agreement (lease) contains an express lien on the contents in paragraph \_\_\_\_ of the agreement. A photocopy of the storage agreement (lease) is attached.

### 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, Section 59.0445(d) is attached.

### E. Foreclosure Notices and Public Sale.

- (1) Date each storage facility tenant was given a “notice of claim” under Texas Property Code, Section 59.043: \_\_\_\_\_
- (2) Date all owner(s) and lienholder(s) of record were given notice by the storage facility owner of (i) amount of unpaid charges, and (ii) request for payment under Texas Property Code, Section 59.0445: \_\_\_\_\_
- (3) Name of newspaper and publication dates of public sale notices under Texas Property Code, Section 59.044: \_\_\_\_\_

\_\_\_\_\_ Newspaper Name Publication Date - Week 1 Publication Date - Week 2

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

Physical Address or Internet Website

Date

**F. Affidavit Of Representative of Self-Service Storage Facility.**

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 stored at the self-service storage facility under the storage agreement described above;
- (2) The storage facility sent notice of claim to the tenant(s), as required by statute;
- (3) The storage facility sent notice of intent to sell to all owner(s) and lienholder(s) not later than 30 days after the date of seizure, as required by statute, or complied with alternative notice procedures in accordance with Texas Property Code, Section 59.0445; 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 storage facility 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 Facility

Street Address

City, State and Zip

Mailing Address (if different)

Street Address

City, State and Zip

Signature of Affiant (representative of Storage Facility): \_\_\_\_\_

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

Month

Year

Signature of Notary

Printed Name of Notary

Notary Stamp/Seal

County, State of Texas

**G. Bill of Sale [The 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 self-service 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

Signature of Notary

Printed Name of Notary

Notary Stamp/Seal

County, State of 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 45 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 by Self-Service Storage Facility (PWD 309B)**

### **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 309B** - Affidavit of Statutory Lien Foreclosure Sale by Self-Service Storage Facility for the vessel and/or outboard motor (pages one and two);
- 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 309B – Affidavit of Statutory Lien Foreclosure Sale by Self-Service Storage Facility). The self-service storage facility must sign and date the application form(s) as the seller.  
If the self-service storage 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 storage 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 309B. 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 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 storage agreement (lease);
- 5) ☐ Photocopy of both newspaper publications of public (foreclosure) sale, required under Texas Property Code, Section 59.044;
- 6) ☐ Notice to tenant(s) under Texas Property Code, Section 59.043, as evidenced by the following:
  - ☐ Photocopy of notice of claim to tenant(s);
  - ☐ Evidence of mailing. **One** of the following must be submitted:
    - ☐ Any official evidence of mailing issued by the USPS or a common carrier [such as a receipt, copy of receipt, green card (USPS form 3811), or website tracking printout]; or
    - ☐ UNOPENED letter(s) returned as undeliverable, unclaimed, or no forwarding address; or
    - ☐ Proof of hand delivery (dated document signed by the tenant with delivery receipt, photocopy of signed notice of claim, affidavit, etc.)
- OR**
- ☐ Photocopy of e-mail notification, if sent electronically. Must be authorized by rental agreement (see step 5 on page 4).
- 7) ☐ Notice to owner(s) and lienholder(s) under Texas Property Code, Section 59.0445, as evidenced by the following:
  - ☐ Photocopy of notice to all owner(s) and lienholder(s);
  - ☐ Evidence of mailing. **One** of the following must be submitted:
    - ☐ Any official evidence of mailing issued by the USPS or a common carrier [such as a receipt, copy of receipt, green card (USPS form 3811), or website tracking printout]; or
    - ☐ UNOPENED letter(s) returned as undeliverable, unclaimed, or no forwarding address; or
- OR**
- ☐ Notice by newspaper publication if unable to obtain title/registration owner verification under Texas Property Code, Section 59.0445(d) [see item #8) Title/Registration Owner Verification requirements below].
- 8) ☐ 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 59.0445(d)(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 59.0445(d)(1);
  - ☐ Evidence of mailing. One of the following must be submitted:
    - ☐ Any official evidence of mailing issued by the USPS or a common carrier [such as a receipt, copy of receipt, green card (USPS form 3811), or website tracking printout]; or
    - ☐ UNOPENED letter(s) returned as undeliverable, unclaimed, or no forwarding address.

# **Affidavit of Statutory Lien Foreclosure Sale by Self-Service Storage Facility (PWD 309B)**

## **- 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 asset type (vessel and/or outboard motor) that is being foreclosed.
- (2) If a vessel is being foreclosed, include the complete description.
- (3) If an outboard motor is being foreclosed, include the complete description.
- (4) List the name and complete address of the person (tenant) who rented the storage unit where the vessel or outboard motor was found.

### **Step Three (Section C) – Storage Information.**

- (1) List the name of the self-service storage facility and the date of the storage agreement (lease).
- (2) List the complete address of the facility and the mailing address if it differs from the physical location address.
- (3) List the applicable paragraph in the self-service storage agreement (lease) which contains an express lien on the contents.

### **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.texas.gov/fishboat/boat/](http://www.tpwd.texas.gov/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, Section 59.0445(d). The notice must be published once in a print or electronic version of 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 #8] for acceptable forms of documented evidence.]

If this process is used, select "Documentation of compliance with Texas Property Code, Section 59.0445(d) is attached".

### **Step Five (section E) – Foreclosure Notices and Public Sale.**

#### **(1) Notification To Tenant(s).**

Under Texas Property Code, Section 59.043, notification must be sent to the tenant(s) listed on the self-service storage agreement (lease). This notice of claim to the tenant(s) must contain:

- (1) an itemized account of the claim;
- (2) the name, address, and phone number of the storage facility or the storage facility's agent;
- (3) a statement that the contents of the self-service storage facility have been seized under the contractual landlord's lien;
- (4) a statement that if the tenant fails to satisfy the claim on or before the 14<sup>th</sup> day after the date the notice is delivered, the property may be sold at public auction; and
- (5) a statement underlined or printed in conspicuous bold print requesting a tenant who is in military service immediately notify the lessor of the tenant's current military service status\*.

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**- Instructions for Statutory Foreclosure Lien Form & Process -**

**Step Five (Section E) – Foreclosure Notices and Public Sale.**

**(1) Notification To Tenant(s). (continued)**

The notice must be hand delivered or sent by verified mail to the tenant's last known postal or e-mail address as stated in the rental agreement or in a written notice from the tenant furnished after the execution of the rental agreement. *The notice may only be delivered by e-mail if the written rental agreement between the lessor and the tenant contains language underlined or in conspicuous bold print that notice may be given by e-mail.* Evidence of mailing must be provided to TPWD. [See the Transfer of Title Checklist – Required Documents, item 6) for acceptable forms of documented evidence.]

\*Servicemembers are entitled to the protections and rights relating to the enforcement of storage liens under the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.).

**(2) Notification To Owner(s) And Lienholder(s).**

Under Texas Property Code, Section 59.0445, notification to the owner(s)\* and lienholder(s)\* of the vessel or outboard motor must be mailed not later than 30 days after the above notification to the tenant(s) and/or date of seizure. The notice must include:

- (1) the amount of charges;
- (2) a request for payment; and
- (3) a statement of the self-service storage facility's intent to sell at public auction if charges owed are not paid in full within 30 days.

The notification to all owner(s) and lienholder(s) must be sent by verified mail to their respective addresses according to TPWD records or other state's records. Evidence of mailing must be provided to TPWD. [See the Transfer of Title Checklist – Required Documents, item #7) for acceptable forms of documented evidence.]

\* 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) Newspaper Publications of Public (Foreclosure) Sale.**

Under Texas Property Code, Section 59.044, the notice advertising the public sale must contain:

- (1) a general description (make, TX or serial number, year built) of the property;
- (2) a statement that the property is being sold to satisfy a landlord's lien;
- (3) the tenant(s) name;
- (4) the address of the self-service storage facility; and
- (5) the time, place (physical address or internet website, as applicable) and terms of the sale.

The lessor must publish the notice once in each of two consecutive weeks in a newspaper of general circulation in the county in which the self-service storage facility is located.

List the name of the newspaper in which the notices advertising the sale were posted and the dates of publication.

**(4) Public (Foreclosure) Sale.**

Under Texas Property Code, Section 59.0445(g), if the charges are not paid before the 31st day after the date the notice is mailed or published, as applicable, the lessor may sell the vessel/outboard motor at a public sale and apply the proceeds to the charges. In accordance with Texas Property Code, Section 59.046, if the proceeds of the sale are greater than the amount of the lien and the reasonable expenses of the sale, then the self-service storage facility must deliver written notice of the excess to the tenant's last known address. The excess must be provided to the tenant if the tenant requests it before two years after the date of the sale.

List the location (physical address or internet website) 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 self-service foreclosure lien. The name and complete address of the self-service storage 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.

(Continued on page 6)

**Affidavit of Statutory Lien Foreclosure Sale by Self-Service Storage Facility (PWD 309B)**  
**- Instructions for Statutory Foreclosure Lien Form & Process -**

**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 45 working days of the date of sale. If not paid within that time, penalty and interest will accrue.