

## Memorandum

Date: April 23, 2008

To: The Honorable Dave Jones, Chair  
The Honorable Van Tran, Vice Chair  
Members, Assembly Judiciary Committee

From: Rex D. Frazier, President  
Michael A. Gunning, Vice President  
Kimberley Dellinger, General Counsel  
Ermelinda Ruiz, Legislative Advocate

Re: AB 3004 (Duvall): Vehicles: Liens  
As Amended April 1, 2008  
Assembly Judiciary Committee Hearing April 29, 2008  
**PIFC Position: Sponsor / Support**



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The Personal Insurance Federation of California, representing insurers who write nearly 50% of the auto insurance sold in the state, including State Farm, Farmers, Safeco, aigdirect.com, Progressive and NAMIC, **sponsors and supports AB 3004 authored by Assembly Member Duvall.**

AB 3004 would require that a lien shall be extinguished if the lienholder, after written demand by the owner or their representative fails to provide, within a specified period of time, copies of the requested documents required by Section 10652.5 of the Vehicle Code.

Many times lienholders do not follow the procedures set forth in Civil Code Section 3068 for perfecting their lien. They typically fail to give the required notices or follow the statutory requirements and as a result, an owner may not receive the appropriate notification regarding the lien in a timely manner, if at all. The consequences of these actions are that the lienholder presses for excessive lien storage fees despite their negligence in providing the required documentation.

AB 3004 would bolster existing law to provide for a forfeiture of the lien if the lienholder fails to follow the provisions for perfecting their liens. By requiring that the lienholder provide the requested documentation, it would bolster the fight against outright fraud or less than forthright business practices by lienholders who seek lien fees without complying with the Civil Code and Vehicle Code requirements.

The bill would balance the lienholder's possession of the vehicle against the right to recover lien fees. Often times, the lienholder uses their possession of the vehicle and accumulating storage as additional leverage to release the vehicle despite that the notice or other requirements within the Civil Code section have not been complied with.

A classic example of the benefits that could be provided by AB 3004 is after an accident an owner typically does not know where their car has been taken. The lienholder is required to obtain the name and address of owner from DMV and give notice of possible lien sale to owner in order to collect for any storage fees. More times than not, the lienholder fails to identify or notify the owner yet still seeks the lien storage fees and uses possession of the vehicle and accumulating storage as "ransom." Had the lienholder provided timely notice, the owner could have taken measures to reduce the lien fee and collect the vehicle.

For the above reasons, **PIFC is proud to both sponsor and support AB 3004 and urges your aye vote.** If you have any additional questions regarding our position, please do not hesitate to contact Michael A. Gunning at (916) 442-6646.

cc: Assembly Member Duvall (Author)  
Mike Prosio, Chief Deputy, Legislative Affairs Secretary, Office of the Governor  
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Mark Redmond, Consultant, Assembly Republican Caucus  
Kathleen Webb, Office of the Insurance Advisor