

Date of Hearing: April 29, 2008

ASSEMBLY COMMITTEE ON JUDICIARY  
Dave Jones, Chair  
AB 3004 (Duvall) – As Amended: April 1, 2008

PROPOSED CONSENT

SUBJECT: VEHICLE LIENS

KEY ISSUE: IN ORDER TO PROVIDE VEHICLE OWNERS WITH REQUIRED DOCUMENTS, SHOULD A VEHICLE LIEN BE EXTINGUISHED IF A LIENHOLDER FAILS TO TIMELY PROVIDE THE VEHICLE OWNER WITH SPECIFIED DOCUMENTS?

SYNOPSIS

*This non-controversial bill, sponsored by the Personal Insurance Federation of California, provides that a vehicle lien is extinguished if requested documents are not provided to the legal owner of the vehicle, by the lienholder, as specified. Current law requires every operator of a towing service to keep a written record of every vehicle of a type subject to registration stored for a period longer than 12 hours. This written record must contain the name and address of the person storing the vehicle or requesting the towing, the names of the owner and driver of the vehicle and a brief description of the vehicle including the name or make, the motor or other number of the vehicle, the nature of any damage to the vehicle, and the license number and registration number shown by the license plates or registration card. According to the author, vehicle lienholders often do not follow procedures for perfecting their lien by giving required notices or following the statutory requirements. Consequently, the author states, an owner may not receive appropriate notices regarding the lien in a timely manner or at all, but the lienholder presses for excessive lien storage fees despite the deficiency in required notice and/or required documentation. Given the relatively minor scope of the bill, the author has acknowledged that should it be amended, the Committee reserves the right to hear the bill again. This bill has no known opposition.*

SUMMARY: Provides that a vehicle lien is extinguished if requested documents are not provided to the legal owner of the vehicle, by the lienholder, as specified. Specifically, this bill provides that any lien that arises for the storage, repair, or safekeeping of, or for the rental of parking space for, a vehicle shall be extinguished if the lienholder, after written demand made by either the legal owner or lessor of the vehicle, within 72 hours after the receipt of that written demand, fails to provide copies of requested documents required to be filed or mailed as specified.

EXISTING LAW:

- 1) Provides that any lien that arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished, and no lien sale shall be conducted, if the lienholder, after written demand made by either personal service or certified mail with return receipt requested by the legal owner or the lessor to receive a written copy of the work order or invoice reflecting the services or repairs performed on the vehicle and the authorization from the registered owner requesting the lienholder to perform the services

AB 3004

Page 2

or repairs, fails to provide that copy to the legal owner or lessor, or his or her agent, within 10 days after the receipt of that written demand. (Civil Code Section 3068.)

- 2) Provides that every operator of a towing service and every keeper of a garage or trailer park shall keep a written record of every vehicle of a type subject to registration stored for a period longer than 12 hours. Provides that the record shall contain the name and address of the person storing the vehicle or requesting the towing, the names of the owner and driver of the vehicle, if ascertainable, and a brief description of the vehicle including the name or make, the motor or other number of the vehicle, the nature of any damage to the vehicle, and the license number and registration number shown by the license plates or registration card, if either of the latter is attached to the vehicle in a clearly discernible place. Provides that all records shall be kept for one year from the commencement of storage and shall be open to inspection by any peace officer. (Vehicle Code Section 10650.)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: According to the author, vehicle lienholders often do not follow procedures for perfecting their lien by giving required notices or following the statutory requirements. Consequently, the author states, an owner may not receive appropriate notices regarding the lien in a timely manner or at all, but the lienholder presses for excessive lien storage fees despite the deficiency in required notice and/or required documentation. According to the sponsor, the Personal Insurance Federation of California, this bill will 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 sponsor states that oftentimes, the lienholder uses their possession of the vehicle and accumulating storage as additional leverage to release the vehicle despite the noncompliance with the notice requirements of the lienholder.

Additional Amendments. The author has indicated that there are on-going discussions that are planned to fine-tune this bill in order to better address the issues that are trying to be resolved. As a result, the author has agreed that should this bill be amended after it has been heard by this Committee, the subsequent version of this bill will, at the Committee's discretion, be presented again.

REGISTERED SUPPORT / OPPOSITION:

Support

Personal Insurance Federation of California (sponsor)

Opposition

None on file

Analysis Prepared by: Manuel Valencia / JUD. / (916) 319-2334