



## INSTRUCTIONS FOR FORECLOSURE SALE UNDER STORAGE OR MECHANIC'S LIEN (PWD 309A)

This form lists each step and the forms required for a storage facility, mechanic's facility or wrecker service to sell a vessel and/or outboard motor seized under the terms of a statutory foreclosure lien (due to non payment of charges). (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 forms PWD 309B and PWD 309C.)

### 1. YOU CANNOT OBTAIN A TRANSFER OF TITLE IF:

- you do not have a written agreement/contract for storage/repair/wrecker service;
- you cannot obtain owner and lienholder information from TPWD or comparable agency from another state (unless you have complied with Texas Property Code Section 70.006(c));
- 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
- you have not followed all the required statutory procedures for the foreclosure sale.

### 2. 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/](http://www.tpwd.state.tx.us/fishboat/) (select Request Ownership Information listed under Boating). 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 (PWD 763); or
- (3) Through the mail by submitting an Ownership/Lien Holder Information Printout request (form PWD 763).

In the alternative, if you are unable to obtain the above information regarding current owner(s) and lienholder(s), you must submit evidence that you have given notice to the owner(s) and lienholder(s) by publication in accordance with Texas Property Code, Section 70.006(c). If such notice is used, the following must be submitted to TPWD:

- 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, submitted to the governmental entity as a request for information relating to the identity of the last known registered owner and any lienholder of record under Section 70.006(c)(1); and
- The original response letter from the appropriate governmental entity pursuant to Section 70.006(c)(2)(A) or a PWD 314 signed statement from the statutory lienholder that no response from the governmental entity was received on or before the 21st day after the request to the governmental entity was sent; and
- A PWD 314 signed statement from the statutory lienholder that all requisites of Section 70.006(c) have been met; and
- A photocopy of the published notice.

### 3. 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**. 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. The notice must include the amount of charges due and a request for payment. The 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 must be submitted to TPWD. Notice by newspaper publication may be given if unable to obtain title/registration owner verification (see item 2. Title/Registration Owner Verification above).

**NOTE: FOR WRECKER/TOW SERVICE** - 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.

### 4. SECOND NOTIFICATION OF CHARGES DUE.

Under Texas Property Code, Section 70.006, 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** is sent advising of amount due and requesting payment. The notification to all owner(s) and lienholder(s) 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. The notice must include the amount of unpaid charges due and a request for payment. It is preferable, but not required, that the notice disclose the facility's intent to sell at foreclosure sale if not paid in full within 30 days. The 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 must be submitted to TPWD. Notice by newspaper publication may be given if unable to obtain title/registration owner verification (see item 2. Title/Registration Owner Verification above).

**5. NEWSPAPER PUBLICATION OF PUBLIC (FORECLOSURE) SALE.**

Under Texas Property Code, Section 70.006, the foreclosure sale by the storage or mechanic's facility must take place at least 31 days after the second notification to the person shown on the storage/repair agreement, and all owner(s) and lienholder(s) of record. 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. The proceeds of the sale should be applied to the charges. The storage or mechanic facility should pay any excess proceeds to the person entitled to them (ie. owner/lienholder).

**6. PWD 143–APPLICATION FOR TITLE OF VESSEL and/or PWD 144–APPLICATION FOR TITLE OF OUTBOARD MOTOR.**

Application form(s) must be completed in full with the same purchaser name, address, sales date and sales price as shown on the **PWD 309 – 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). 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 for purposes of title, registration and taxes is considered to be the full amount of the charges due to the facility. This total amount due must be shown on the PWD 143 and/or PWD 144, and PWD 309. When a current 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.

**7. PWD FORM 504 - AFFIDAVIT OF FACTS FOR IDENTIFICATION/SERIAL NUMBER OF THE HULL OR MOTOR.**

You must provide 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.

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

You must submit the following completed forms and attachments, along with the required fees, to the local county tax collector or TPWD:

- PWD 143** - Application for title of vessel, and/or **PWD 144** - Application for title of outboard motor, as appropriate;
  - PWD 309** - Affidavit of Statutory Lien Foreclosure Sale for Storage or Mechanic's Lien for each vessel **or** outboard motor;
  - PWD 504** - Affidavit of Facts for Identification/Serial Number of the Hull and/or Motor;
  - Photocopy of entire agreement/contract for storage/repair/wrecker service;
  - Photocopy of newspaper publication of public (foreclosure) sale;
  - 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, as evidenced by the following:
    - Photocopy of notice to all owner(s) and lienholder(s);
    - Evidence of mailing certified mail with return receipt requested. One of the following must be submitted:
      - (1) Certified mail return receipt PS form 3811 (original or photocopy of green card); or
      - (2) Evidence of electronic confirmation of mailing by certified mail, return receipt requested from the USPS website; or
      - (3) Unopened certified mail letter(s) returned by the post office.
- OR**
- Notice by newspaper publication if unable to obtain title/registration owner verification under Texas Property Code, Section 70.006(c) (see Title/Registration Owner Verification requirements below).
- 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, as evidenced by the following:
  - Photocopy of notice to all owner(s) and lienholder(s);
  - Evidence of mailing certified mail with return receipt requested. One of the following must be submitted:
    - (1) Certified mail return receipt PS form 3811 (original or photocopy of green card); or
    - (2) Evidence of electronic confirmation of mailing by certified mail, return receipt requested from the USPS website; or
    - (3) Unopened certified mail letter(s) returned by the post office.
- OR**
- Notice by newspaper publication if unable to obtain title/registration owner verification under Texas Property Code, Section 70.006(c) (see Title/Registration Owner Verification requirements below).
- Title/Registration Owner Verification, as evidenced by *one* of the following:
  - (1) Written verification from TPWD or state agency of another state; or
  - (2) Evidence of compliance with Texas Property Code, Section 70.006(c), as evidenced by the following:
    - A signed **PWD 314** Affidavit of Fact from the statutory lienholder that all requisites of Section 70.006(c) have been met;
    - Photocopy of the published notice;
    - 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, submitted to the governmental entity as a request under Section 70.006(c)(1); and
    - The original response letter from the appropriate governmental entity pursuant to Section 70.006(c)(2)(A), or a statement on the **PWD 314** Affidavit of Fact noting that no response from the governmental entity was received on or before the 21st day after the request to the governmental entity was sent.