PROPERTY CODE

TITLE 5. EXEMPT PROPERTY AND LIENS

SUBTITLE B. LIENS

CHAPTER 61. MOTOR VEHICLE MORTGAGEE'S LIEN

Sec. 61.001. DEFINITIONS. In this chapter:

(1) "Motor vehicle" means any motor-driven or propelled vehicle required to be registered or licensed under the laws of this state.

(2) "Mortgagee" means a secured party, as defined by Section 9.102, Business & Commerce Code, holding a lien on a motor vehicle that has been perfected pursuant to Subchapter F, Chapter 501, Transportation Code.

(3) "Mortgagor" means a debtor, as defined by Section 9.102, Business & Commerce Code, giving a lien or agreeing that a lien may be retained on a motor vehicle.

Added by Acts 1989, 71st Leg., ch. 171, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.246, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 414, Sec. 2.37, eff. July 1, 2001.

Sec. 61.002. LIEN. A mortgagee has a lien on a cause of action or other claim of a mortgagor in connection with an accident that involves a motor vehicle on which the mortgagee has perfected a lien and that is attributable to the negligence of another person.

Added by Acts 1989, 71st Leg., ch. 171, Sec. 1, eff. Sept. 1, 1989.

Sec. 61.003. PROPERTY TO WHICH LIEN ATTACHES. The lien attaches to:

(1) a cause of action for damages arising from property damage to a motor vehicle on which the mortgagee has perfected a lien caused by an accident that is attributable to the negligence of another person;

(2) a judgment of a court in favor of a mortgagor arising from property damage to a motor vehicle on which the mortgagee has perfected a lien caused by an accident that is attributable to the negligence of another person;

(3) the proceeds of a settlement of a cause of action

or a claim by the mortgagor for property damage to a motor vehicle on which the mortgagee has perfected a lien caused by an accident that is attributable to the negligence of another person; and

(4) the proceeds of a property damage liability insurance policy carried by another person that protects the other person against property damage loss caused by accident or collision.

Added by Acts 1989, 71st Leg., ch. 171, Sec. 1, eff. Sept. 1, 1989.

Sec. 61.004. AMOUNT OF LIEN. The amount of the lien is the lesser of:

(1) the fair market value of the motor vehicle before the accident;

(2) the reasonable cost of repair to the motor vehicle; or

(3) the balance owed to the mortgagee by the mortgagor.

Added by Acts 1989, 71st Leg., ch. 171, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 48, Sec. 11, eff. Sept. 1, 1993.

Sec. 61.005. DISCHARGE OF LIEN. If the property to which a lien created under this chapter attaches is paid jointly to the mortgagee and the mortgagor, the lien is discharged.

Added by Acts 1989, 71st Leg., ch. 171, Sec. 1, eff. Sept. 1, 1989.

Sec. 61.006. ATTORNEY'S FEES. The prevailing party in an action to enforce this chapter is entitled to recover reasonable attorney's fees.

Added by Acts 2023, 88th Leg., R.S., Ch. 548 (H.B. 4142), Sec. 1, eff. September 1, 2023.