
STORAGE/TOWING FEES AND LIEN SALES

DEPARTMENT OF CONSUMER AFFAIRS



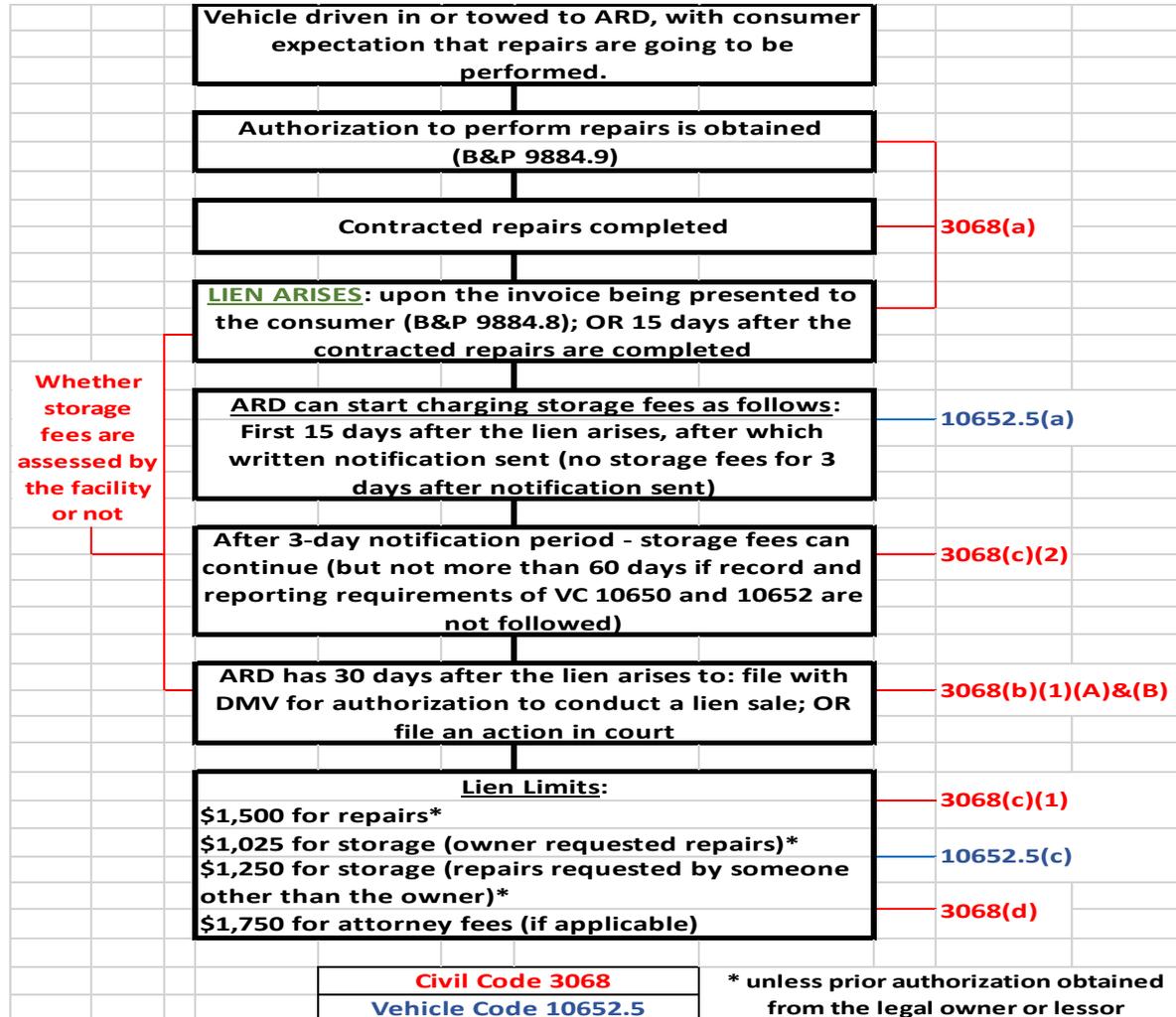
Bureau of Automotive Repair

MATHEW GIBSON
ENFORCEMENT OPERATIONS BRANCH
BAR ADVISORY GROUP MEETING
OCTOBER 18, 2018

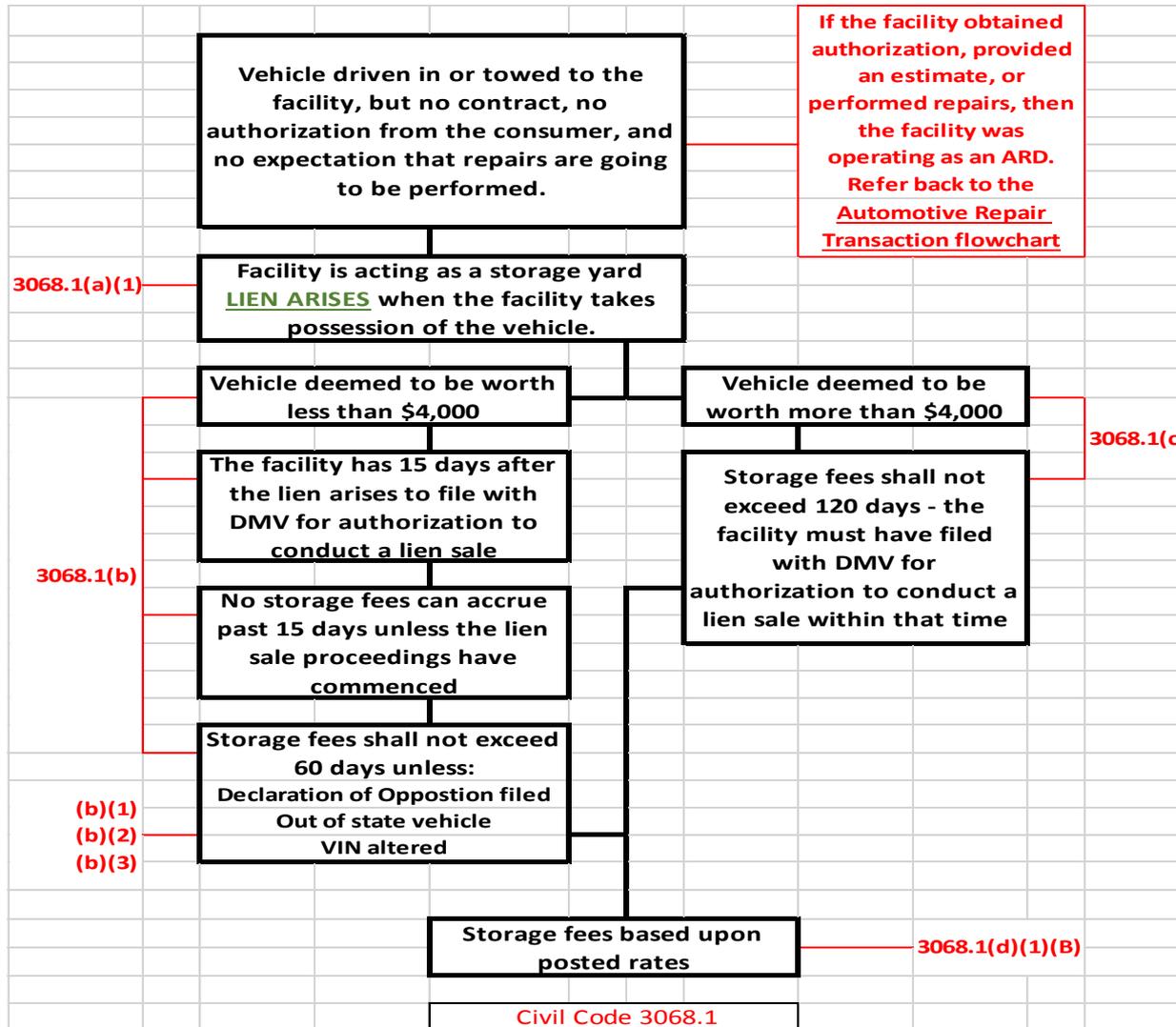
OVERVIEW

- A “Lien” is a right to keep possession of property belonging to another person until a debt owed by that person is discharged
- This right is provided for “mechanics, persons furnishing materials, artisans, and laborers of every class” under the California Constitution (Art. XIV, Sec 3)
- Towing/Storage Fees vs. Lien Sales
 - Towing/Storage fees are primarily governed by Vehicle Code
 - Lien sales are primarily governed by Civil Code

AUTOMOTIVE REPAIR TRANSACTION STORAGE FEES AND LIEN SALE FLOWCHART



STORAGE YARD STORAGE FEES AND LIEN SALE FLOWCHART



2018 LEGISLATION

AB 2392 (Santiago, Chapter 434, Statutes of 2018)

- Makes changes to 3 Vehicle Code Sections that govern towing and storage fees (10652.5, 22524.5, 22651.07)
 - Insurance companies obligated to allow consumer's repair facility of choice
 - Insurance companies permitted to inspect stored vehicles at no charge
 - Storage rates must be reasonable
 - Defines reasonable and unreasonable fees

2018 LEGISLATION (CONTINUED)

- **Reasonable fees are defined as:**
 - Fees and rates that do not exceed those charged by a public agency
 - Comparable to storage-related rates and fees charged by other facilities in the same locale
- **Unreasonable fees include:**
 - Administrative or filing fee (unless related to a lien sale)
 - Security fees
 - Dolly fees
 - Load and unload fees
 - Pull-out fees
 - Gate fees (unless release of the vehicle is requested outside regular business hours)

2018 LEGISLATION (CONTINUED 2)

AB 2825 (Jones-Sawyer)

- Died in Senate Appropriations Committee and not passed into law
- Included within the definition of “Towing Debt:” unpaid charges for repairing, performing labor upon, furnishing supplies or materials for a vehicle
- Regulated customer contacts and notifications regarding towing debt in accordance with applicable provisions of the Rosenthal Fair Debt Collection Practices Act (CA Civil Code, Sections 1788 et seq.)

BAR COMPLAINT INVESTIGATIONS

- **Is the facility registered and is that registration current?**

B&P 9884.16 – A valid ARD registration is required to have the benefit of a lien for labor or materials or the right to sue on a contract for automotive repair.

- **Did the facility obtain and document authorization for the repairs performed?**

B&P 9884.9 – No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer.

- **Was a final invoice generated and was that invoice provided to the customer?**

B&P 9884.8 – All work done by an ARD shall be recorded on an invoice.

Civil Code 3068(a) – The lien shall be deemed to arise at the time a written statement of charges for completed work is presented, or 15 days after the work is completed.

BAR OBSERVATIONS

- Storage fee and lien sale issues arise most frequently in Auto Body complaints.
- In those complaints, BAR frequently finds facilities attempting to charge storage fees like a storage yard, when acting in the capacity of an ARD.
- A facility cannot be both a storage yard and ARD in the same transaction at the same time.
- Facilities often contract with an outside vendor to complete and process DMV Lien Sale documents. However, outside vendors do not routinely verify that facilities have met their contractual obligations.

BAR RESPONSE TO COMPLAINTS WITH STORAGE AND LIEN ISSUES

- Consumer informs BAR that a facility has filed with DMV for authorization to conduct a Lien Sale
- BAR will:
 - Notify the consumer of the right to file an opposition to the lien sale with DMV, delays the sale pending a hearing
 - Expedite the investigation of the consumer's complaint
 - Verify the facility's registration status
 - Determine if facility met its contractual obligations to provide an estimate, obtain customer authorization, and provide a final invoice

BAR RESPONSE TO COMPLAINTS WITH STORAGE AND LIEN ISSUES (CONTINUED)

- Determine if provisions of Civil Code 3068 or 3068.1 have been followed.
- Attempt to resolve the dispute and make appropriate suggestions/recommendations based upon investigation findings.
- If mediation is unsuccessful, either party can subpoena the BAR complaint report to any subsequent hearing.
 - Report details BAR findings and recommendations to resolve the dispute.

QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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