STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 154 BY: FISHER

AS INTRODUCED

AN ACT RELATING TO MOTOR VEHICLES; AMENDING SECTION 13, CHAPTER 179, O.S.L. 1985, AS LAST AMENDED BY SECTION 3, CHAPTER 58, O.S.L. 1989 (47 O.S. SUPP. 1990, SECTION 1110), WHICH RELATES TO THE OKLAHOMA VEHICLE LICENSE AND REGISTRATION ACT; MODIFYING TIME PERIOD BY WHICH CERTAIN RELEASE MUST BE FURNISHED; REQUIRING MAILING OF COPY OF RELEASE TO LICENSED USED MOTOR VEHICLE DEALER UNDER CERTAIN CIRCUMSTANCES; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 13, Chapter 179, O.S.L. 1985, as last amended by Section 3, Chapter 58, O.S.L. 1989 (47 O.S. Supp. 1990, Section 1110), is amended to read as follows:

Section 1110. A. 1. Except for a security interest in vehicles held by a dealer for sale or lease, as defined in Section 1-112 of this title and a vehicle being registered in this state which was previously registered in another state and which title contains the name of a secured party on the face of the other state

certificate or title, a security interest, as defined in Section 1-201 of Title 12A of the Oklahoma Statutes, in a vehicle as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form prescribed by the Commission, and the existing certificate of title, if any, or application for a certificate of title and manufacturer's certificate of origin containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Commission or to a motor license agent. For the purposes of this section, the term "vehicle" shall not include special mobilized machinery, machinery used in highway construction or road material construction and rubber-tired road construction vehicles including rubber-tired cranes. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 9-302 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in vehicles as to which a certificate of title may be properly issued by the Commission, except as to vehicles held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in vehicles as to which a certificate of title may be properly issued by the Commission.

2. Whenever a person creates a security interest in a vehicle, such person shall surrender to the secured party the certificate of title or the signed application for a new certificate of title, on the form prescribed by the Commission, and the manufacturer's certificate of origin. The secured party shall deliver the lien entry form and the required lien filing fee within fifteen (15) days as provided hereafter with certificate of title or the application for certificate of title and the manufacturer's certificate of origin to the Commission or to a motor license agent. If the lien

entry form, the lien filing fee and the certificate of title or application for certificate of title and the manufacturer's certificate of origin are delivered to the Commission or to a motor license agent within fifteen (15) days after the date of the lien entry form, perfection of the security interest shall begin from the date of the execution of the lien entry form, but, otherwise, perfection of the security interest shall begin from the date of the delivery to the Commission or to a motor license agent.

3. a. For each security interest recorded on a certificate of title, or manufacturer's certificate of origin, such person shall pay a fee of Ten Dollars ($10.00), which shall be in addition to other fees provided for in this act. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and manufacturer's certificate of origin, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a conspicuous place, on each of these instruments. Of the ten-dollar fee, the motor license agent shall retain Two Dollars ($2.00) for recording the security interest lien.

b. It shall be unlawful for any person to solicit, accept or receive any gratuity or compensation for acting as a messenger and for acting as the agent or representative of another person in applying for the recording of a security interest or for the registration of a motor vehicle and obtaining the license plates or for the issuance of a certificate of title therefor unless the Commission has appointed and approved said person to perform such acts; and before acting as a messenger, any such person shall furnish

to the Commission a surety bond in such amount as the Commission shall determine appropriate.

4. The certificate of title or the application for certificate of title and manufacturer's certificate of origin with the record of the date of receipt clearly marked thereon shall be returned to the debtor together with a notice that the debtor is required to register and pay all additional fees and taxes due within thirty (30) days from the date of purchase of said vehicle.

5. Any person creating a security interest in a vehicle that has been previously registered in the debtor's name and on which all taxes due the state have been paid shall surrender the certificate of ownership to the secured party. The secured party shall have the duty to record the security interest as provided in this section and shall, at the same time, obtain a new certificate of title which shall show the secured interest on the face of such certificate of title.

6. The lien entry form with the date and assigned number thereof clearly marked thereon shall be returned to the secured party. If the lien entry form is received and authenticated, as herein provided, by a motor license agent, such agent shall make a report thereof to the Commission upon the forms and in the manner as may be prescribed by the Commission.

7. The Commission shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on such vehicle.

B. 1. A secured party shall, within ~~fifteen (15)~~ five (5) business days after the satisfaction of such security interest, furnish directly or by mail a release of a security interest to the Commission and mail a copy thereof to the last-known address of the debtor. If the security interest has been satisfied by payment from a licensed used motor vehicle dealer to whom the motor vehicle has been transferred, the secured party shall also, within five (5)

business days after such satisfaction, mail a copy of the release to such dealer. If the secured party fails to furnish such release as herein required, the secured party shall be liable to the debtor for a penalty of One Hundred Dollars ($100.00) and, in addition, any loss caused to the debtor by such failure.

2. Upon release of a security interest the owner may obtain a new certificate of title omitting reference to the security interest, by submitting to the Commission or to a motor license agent:

a. a release signed by the secured party, an application for new certificate of title and the proper fees, or

b. by submitting to the Commission or the motor license agent an affidavit, supported by such documentation as the Commission may require, by the owner on a form prescribed by the Commission stating that the security interest has been satisfied and stating the reasons why a release cannot be obtained, an application for a new certificate of title and the proper fees.

Upon receiving such affidavit that the security interest has been satisfied, the Commission shall issue a new certificate of title eliminating the satisfied security interest and the name and address of the secured parties who have been paid and satisfied.

The words "security interest" when used in this act do not include liens dependent upon possession.

C. The Commission shall file and index certificates of title so that at all times it will be possible to trace a certificate of title to the vehicle designated therein, identify the lien entry form, and the names and addresses of secured parties, or their assignees, so that all or any part of such information may be made readily available to those who make legitimate inquiry of the Commission as to the existence or nonexistence of security interest in the vehicle.

D. Any security interest in a vehicle properly perfected prior to July 1, 1979, may be continued as to its effectiveness or duration as provided by subsection (3) of Sections 9-401 and subsection (3) of 9-403 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections 9-404, 9-405 and 9-406 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date said security interest was originally perfected under the prior law. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender said certificate of title to the secured party and shall do such other acts as may be required to perfect said security interest under this section.

E. The priority of a valid security interest in a manufactured home, including without limitation a mobile home or sectional home, perfected pursuant to this section, shall not be affected by reason of the manufactured home becoming a fixture or otherwise being permanently attached to real property after the date of perfection of the security interest. A security interest in a manufactured home perfected pursuant to this section shall have priority over a conflicting interest of a mortgagee or other lien encumbrancer, or the owner of the real property upon which the manufactured home became affixed or otherwise permanently attached. The holder of the security interest in the manufactured home, upon default, may remove the manufactured home from such real property. The holder of the security interest in the manufactured home shall reimburse the owner of the real property who is not the debtor and who has not otherwise agreed to access the real property for the cost of repair of any physical injury to the real property, but shall not be liable for any diminution in value to the real property caused by the removal of the manufactured home, trespass, or any other damages caused by

such removal. The debtor shall notify the holder of the security interest in the manufactured home of the street address, if any, and the legal description of the real property upon which the manufactured home is affixed or otherwise permanently attached and shall sign such other documents, including any appropriate mortgage, as may reasonably be requested by the holder of such security interest.

SECTION 2. This act shall become effective July 1, 1991.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-414 CS