

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2358

By: Weaver

AS INTRODUCED

An Act relating to vessels and motors; amending 63 O.S. 1991, Section 4013, as amended by Section 9, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1995, Section 4013), which relates to perfection of security interest; modifying time period for filing certain liens on vessels and motors; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 4013, as amended by Section 9, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1995, Section 4013), is amended to read as follows:

Section 4013. A. 1. Except for a security interest in vessels or motors held by a dealer for sale or lease, a security interest, as defined in Section 1-201 of Title 12A of the Oklahoma Statutes, in a vessel or motor 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 or other identification number 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. 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 vessels or motors as to which a certificate of title may be properly issued by the Commission, except as to vessels or motors 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 vessels or motors as to which a certificate of title may be properly issued by the Commission.

2. Whenever a person creates a security interest in a vessel or motor, 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 or other identification number. The secured party shall deliver the lien entry form and the required lien filing fee within ~~fifteen (15)~~ twenty (20) calendar days as provided hereafter with certificate of title or the application for certificate of title and the manufacturer's certificate of origin or other identification number 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 or other identification number are delivered to the Commission or to a motor license agent within ~~fifteen (15)~~ twenty (20) calendar 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. 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 or other identification number, 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.

4. The certificate of title or the application for certificate of title and manufacturer's certificate of origin or other identification number 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) calendar days from the date of purchase of ~~said~~ the vessel or motor.

5. Any person creating a security interest in a vessel or motor 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~~ the 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~~ the 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~~ the vessel or motor.

B. 1. A secured party shall, within seven (7) business days after the satisfaction of ~~such~~ the 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 boat dealer to whom the used vessel or motor has been transferred, the secured party shall also, within seven (7) business days after ~~such~~ the satisfaction, mail a certified copy of copy number one of the release of security interest to ~~such~~ the dealer. If the secured party fails to furnish ~~such~~ the 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~~ the 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 the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, 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 vessel or motor 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 vessel or motor.

D. Any security interest in a vessel or motor properly perfected prior to the effective date of this act may be continued as to its effectiveness or duration as provided by subsection (3) of Section 9-401 and subsection (3) of Section 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~~ the 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~~ the certificate of title to the secured party and shall do such other acts as may be required to perfect ~~said~~ the security interest under this section.

SECTION 2. This act shall become effective November 1, 1996.

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