

THE HOUSE OF REPRESENTATIVES
Thursday, March 1, 2007

House Bill No. 1016

HOUSE BILL NO. 1016 - By: CAREY of the House and COATES of the Senate.

An Act relating to motor vehicles; amending 47 O.S. 2001, Sections 1105, as last amended by Section 3, Chapter 295, O.S.L. 2006 and 1110, as last amended by Section 1, Chapter 85, O.S.L. 2004 (47 O.S. Supp. 2006, Sections 1105 and 1110), which relate to certificates of title; requiring certificates of title for certain vehicles; providing for security interests in certain vehicles; and providing an effective date.

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

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 1105, as last amended by
2 Section 3, Chapter 295, O.S.L. 2006 (47 O.S. Supp. 2006, Section 1105), is amended to
3 read as follows:
4 Section 1105. A. As used in the Oklahoma Vehicle License and Registration Act:
5 1. "Salvage vehicle" means any vehicle which is within the last ten (10) model years
6 and which has been damaged by collision or other occurrence to the extent that the cost
7 of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of
8 its fair market value, as defined by Section 1111 of this title, immediately prior to the
9 damage. For purposes of this section, actual repair costs shall only include labor and
10 parts for actual damage to the suspension, motor, transmission, frame or unibody and
11 designated structural components;

1 2. “Rebuilt vehicle” means any salvage vehicle which has been rebuilt and
2 inspected for the purpose of registration and title;

3 3. “Flood-damaged vehicle” means a salvage or rebuilt vehicle which was damaged
4 by flooding or a vehicle which was submerged at a level to or above the dashboard of the
5 vehicle and on which an amount of loss was paid by the insurer;

6 4. “Recovered-theft vehicle” means a salvage or rebuilt vehicle which was recovered
7 from a theft; and

8 5. “Junked vehicle” means any vehicle which is incapable of operation or use on the
9 highway, has no resale value except as a source of parts or scrap and has an eighty
10 percent (80%) loss in fair market value.

11 B. The owner of every vehicle in this state shall possess a certificate of title as proof
12 of ownership of such vehicle, except those vehicles registered pursuant to Section 1120 of
13 this title and trailers registered pursuant to Section 1133 of this title, previously titled by
14 anyone in another state and engaged in interstate commerce, and except as provided in
15 subsection M of this section. Except for owners that possess an agricultural exemption
16 permit pursuant to Section 1358.1 of Title 68 of the Oklahoma Statutes, the owner of an
17 all-terrain vehicle or a motorcycle used exclusively off roads or highways in this state
18 which is purchased or the ownership of which is transferred on or after July 1, 2005,
19 shall possess a certificate of title as proof of ownership. Any person possessing an
20 agricultural exemption permit and owning an all-terrain vehicle or a motorcycle used
21 exclusively off roads or highways in this state which is purchased or the ownership of
22 which is transferred on or after July 1, 2008, shall possess a certificate of title as proof of

1 ownership. Upon receipt of proper application information by such owner, the Tax
2 Commission shall issue an original or transfer certificate of title. Until July 1, 2008, any
3 security interest in an all-terrain vehicle that attached and was perfected before July 1,
4 2005, and that has not otherwise terminated shall remain perfected, and shall take
5 priority over any subsequently perfected security interest in the same all-terrain vehicle,
6 notwithstanding that a certificate of title may have been issued with respect to the same
7 all-terrain vehicle on or after July 1, 2005, and that a lien may have been recorded on
8 said certificate of title. There shall be six types of certificates of title:

- 9 1. Original title for any motor vehicle which is not a remanufactured, salvage,
10 rebuilt or junked vehicle;
- 11 2. Salvage title for any motor vehicle which is a salvage vehicle or is specified as a
12 salvage vehicle or the equivalent thereof on a certificate of title from another state;
- 13 3. Rebuilt title for any motor vehicle which is a rebuilt vehicle;
- 14 4. Junked title for any motor vehicle which is a junked vehicle or is specified as a
15 junked vehicle or the equivalent thereof on a certificate of title from another state;
- 16 5. Classic title for any motor vehicle, except a junked vehicle, which is twenty-five
17 (25) model years or older; and
- 18 6. Remanufactured title for any vehicle which is a remanufactured vehicle.

19 Application for a certificate of title, whether the initial certificate of title or a
20 duplicate, may be made to the Tax Commission or any motor license agent. When
21 application is made with a motor license agent, the application information shall be
22 transmitted either electronically or by mail to the Tax Commission by the motor license

1 agent. If the application information is transmitted electronically, the motor license
2 agent shall forward the required application along with evidence of ownership, where
3 required, by mail. Where the transmission of application information cannot be
4 performed electronically, the Tax Commission is authorized to provide postage paid
5 envelopes to motor license agents for the purpose of mailing the application along with
6 evidence of ownership, where required. The Tax Commission shall upon receipt of proper
7 application information issue an Oklahoma certificate of title. The certificates may be
8 mailed to the applicant. Upon issuance of a certificate of title, the Tax Commission shall
9 provide the appropriate motor license agent with confirmation of such issuance.

10 C. 1. The application for certificate of title shall be upon a blank form furnished by
11 the Tax Commission, containing:

- 12 a. a full description of the vehicle,
- 13 b. the manufacturer's serial or other identification number,
- 14 c. the motor number and the date on which first sold by the
15 manufacturer or dealer to the owner,
- 16 d. any distinguishing marks,
- 17 e. a statement of the applicant's source of title,
- 18 f. any security interest upon the vehicle, and
- 19 g. such other information as the Tax Commission may require.

20 2. The application for a certificate of title for a vehicle which is within the last
21 seven (7) model years shall require a declaration as to whether the vehicle has been
22 damaged by collision or other occurrence and whether the vehicle has been recovered

1 from theft and the extent of the damage to the vehicle. The declaration shall be made by
2 the owner of a vehicle if:

- 3 a. the vehicle has been damaged or stolen,
- 4 b. the owner did or did not receive any payment for the loss from an
5 insurer, or
- 6 c. the vehicle is titled or registered in a state that does not classify the
7 vehicle or brand the title because of damage to or loss of the vehicle
8 similar to the classifications or brands utilized by this state.

9 The declaration shall be based upon the best information and knowledge of the
10 owner and shall be in addition to the requirements specified in paragraph 1 of this
11 subsection. The Tax Commission shall not issue a certificate of title for a vehicle which
12 is subject to the provisions of this paragraph without the required declaration, completed
13 and signed by the owner of the vehicle. Upon receipt of an application without the
14 properly completed declaration, the Tax Commission shall return the application to the
15 applicant with notice that the title may not be issued without the required declaration.
16 Nothing in this paragraph shall prohibit the Tax Commission from recognizing the type
17 of or brand on a title or other ownership document issued by another state or the
18 inspection conducted in another state and issuing the appropriate certificate of title for
19 the vehicle.

20 3. The certificate of title shall have the following security features:

- 21 a. intaglio printing or security thread, with or without watermark,
- 22 b. latent images,

- 1 c. fluorescent inks,
- 2 d. micro print,
- 3 e. void background, and
- 4 f. color coding.

5 4. Each title issued pursuant to the provisions of the Oklahoma Vehicle License
6 and Registration Act shall be color coded as determined by the Tax Commission.

7 5. The certificate of title shall be of such size and design and color as the Tax
8 Commission may direct pursuant to the provisions of this section. The title shall be on
9 colored paper or other material as designated by the Tax Commission and be of such
10 intensity or hue as will allow easy identification as to whether the title is an original
11 title, a salvage title, a rebuilt title, remanufactured title, or a junked title. The type of
12 title shall be identified on the front of the certificate of title. The original title, rebuilt
13 title, remanufactured title, or classic title shall be identified by the word "Original",
14 "Rebuilt", "Remanufactured" or "Classic" printed in the upper right quadrant of the
15 certificate of title, in the space which is currently captioned "type of title".

16 D. 1. To obtain an original certificate of title for a vehicle that is being registered
17 for the first time in this state which has not been previously registered in any other
18 state, the applicant shall be required to deliver, as evidence of ownership, a
19 manufacturer's certificate of origin properly assigned by the manufacturer, distributor,
20 or dealer licensed in this or any other state shown thereon to be the last transferee to the
21 applicant upon a form to be prescribed and approved by the Tax Commission. A
22 manufacturer's certificate of origin shall contain:

- 1 a. the manufacturer's serial or other identification number,
- 2 b. date on which first sold by the manufacturer to the dealer,
- 3 c. any distinguishing marks including model and the year same was
- 4 made,
- 5 d. a statement of any security interests upon the vehicle, and
- 6 e. such other information as the Tax Commission may require.

7 2. The manufacturer's certificate of origin shall have the following security
8 features:

- 9 a. intaglio printing or security thread, with or without watermark,
- 10 b. latent images,
- 11 c. fluorescent inks,
- 12 d. micro print, and
- 13 e. void background.

14 E. In the absence of a dealer's or manufacturer's number, the Tax Commission may
15 assign such identifying number to the vehicle, which shall be permanently stamped,
16 burned or pressed or attached into the vehicle, and a certificate of title shall be delivered
17 to the applicant upon payment of all fees and taxes, and the remaining copies shall be
18 permanently filed and indexed by the Tax Commission. The Tax Commission shall
19 assign an identifying number to any rebuilt vehicle if the vehicle identification number
20 displayed on the rebuilt vehicle does not accurately describe the vehicle as rebuilt. The
21 motor license agent, at the time of inspection of the rebuilt vehicle pursuant to Section
22 1111 of this title, shall identify the make, model, and year for the body to accurately

1 describe the rebuilt vehicle. At the time of the inspection, an appropriate identifying
2 number shall be permanently stamped, burned, pressed, or attached on the rebuilt
3 vehicle. The assigned identifying number shall be recorded on the certificate of title for
4 the rebuilt vehicle. The dealer's or manufacturer's vehicle identification number on the
5 rebuilt vehicle shall be preserved in the computer files of the Tax Commission for at least
6 five (5) years.

7 F. When registering for the first time in this state a vehicle which was not
8 originally manufactured for sale in the United States, to obtain a certificate of title, the
9 Tax Commission shall require the applicant to deliver:

10 1. As evidence of ownership, if the vehicle has not previously been titled in the
11 United States, the documents constituting valid proof of ownership in the country in
12 which the vehicle was originally purchased, together with a notarized translation of any
13 such documents; and

14 2. As evidence of compliance with federal law, copies of the bond release letters for
15 the vehicle issued by the United States Environmental Protection Agency and the United
16 States Department of Transportation, together with a receipt issued by the Internal
17 Revenue Service indicating that the applicable federal gas guzzler tax has been paid.

18 The Tax Commission shall not issue a certificate of title for a vehicle which is
19 subject to the provisions of this paragraph without the required documentation from
20 agencies of the United States and evidence of ownership. Upon receipt of an application
21 without the required documentation, the Tax Commission shall return the application to
22 the applicant with notice that the certificate of title may not be issued without the

1 required documentation. Nothing in this paragraph shall prohibit the Tax Commission
2 from issuing certificates of title for antique or classic vehicles not driven upon the public
3 streets, roads, or highways.

4 G. When registering in this state a vehicle which was titled in another state and
5 which title contains the name of a secured party on the face of the other state certificate
6 of title, or such state certificate is being held by the secured party in that state or any
7 other state, the Tax Commission or the motor license agent shall complete a lien entry
8 form as prescribed by the Tax Commission. The owner of such vehicle shall file an
9 affidavit with the Tax Commission or the motor license agent stating that title to the
10 vehicle is being held by a secured party has not been issued pursuant to the laws of the
11 state where titled, and that there is an existing lien or encumbrance on the vehicle. The
12 current name and address of the secured party or lienholder shall also be stated in the
13 affidavit. The form of the affidavit shall be prescribed by the Tax Commission and
14 contain any other information deemed necessary by the Tax Commission. A statement of
15 the lien or encumbrance shall be included on the Oklahoma certificate of title and the
16 lien or encumbrance shall be deemed continuously perfected as though it had been
17 perfected pursuant to Section 1110 of this title. For completing the lien entry form and
18 recording the security interest on the certificate of title, the Tax Commission or the
19 motor license agent shall collect a fee of Three Dollars (\$3.00) which shall be in addition
20 to other fees provided by the Oklahoma Vehicle License and Registration Act. The fee, if
21 collected by the motor license agent pursuant to this subsection, shall be retained by the
22 motor license agent.

1 H. The charge for each certificate of title issued, except for junked titles as defined
2 in paragraph 4 of subsection B of this section, shall be Eleven Dollars (\$11.00), which
3 charge shall be in addition to any other fees or taxes imposed by law for such vehicle.
4 One Dollar (\$1.00) of each such charge shall be deposited in the Oklahoma Tax
5 Commission Reimbursement Fund. However, the charge shall not apply to any vehicle
6 which is to be registered in this state pursuant to the provisions of Section 1120 or 1133
7 of this title and which was registered in another state at least sixty (60) days prior to the
8 time it is required to be registered in this state.

9 I. The vehicle identification number of a junked vehicle shall be preserved in the
10 computer files of the Tax Commission for a period of not less than five (5) years. The
11 charge of junked titles as defined in paragraph 4 of subsection B of this section shall be
12 Four Dollars (\$4.00). The fee remitted to the Tax Commission shall be deposited in the
13 Oklahoma Tax Commission Reimbursement Fund.

14 J. If a vehicle is sold to a resident of another state destroyed, dismantled, or ceases
15 to be used as a vehicle, the owner shall immediately notify the Tax Commission. Absent
16 evidence to the contrary, failure to notify the Tax Commission shall be prima facie
17 evidence that the vehicle has been in continuous operation in this state.

18 K. If a vehicle is stolen, the owner shall immediately notify the appropriate law
19 enforcement agency. Immediately after receiving such notification, the law enforcement
20 agency shall notify the Tax Commission.

21 L. Except for all-terrain vehicles and motorcycles used exclusively for off-road use,
22 no title for an out-of-state vehicle, except any commercial truck or truck-tractor

1 registered pursuant to Section 1120 of this title which is engaged in interstate commerce
2 or any trailer or semitrailer registered pursuant to Section 1133 of this title which is
3 engaged in interstate commerce, shall be issued without an inspection of such vehicle
4 and payment of a fee of Four Dollars (\$4.00) for such inspection; provided, the Tax
5 Commission may enter into reciprocal agreements with other states for such inspections
6 to be performed at locations outside the boundaries of this state for vehicles which:

7 1. Are offered for sale at auction;

8 2. Have been solely used as vehicles for rent under the ownership of a licensed
9 motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

10 3. Have not been registered in this or any other state for more than one (1) year.

11 The inspection shall include a comparison of the vehicle identification number on the
12 vehicle with the number recorded on the ownership records and the recording of the
13 actual odometer reading on the vehicle. The four-dollar fee shall be collected by the
14 motor license agent or Tax Commission when the title is issued. The motor license agent
15 shall retain Two Dollars (\$2.00). The remaining Two Dollars (\$2.00) shall be deposited in
16 the Oklahoma Tax Commission Reimbursement Fund.

17 The Tax Commission may allow the inspection to be performed at a location out-of-
18 state by another state's department of motor vehicles or state police.

19 M. No title for any out-of-state vehicle offered for sale at salvage pools, salvage
20 disposal sales, or an auction, or by a dealer or a licensed automotive dismantler and
21 parts recycler, shall be issued without an inspection to compare the vehicle identification
22 number on the vehicle with the number recorded on the ownership record and to record

1 the actual odometer reading on the vehicle. Upon request of the seller, person or entity
2 conducting an auction, dealer or licensed dismantler, the inspection shall be conducted at
3 the location or place of business of the sale, auction, dealer, or the dismantler. The
4 inspection shall be conducted by any motor license agent or a duly authorized employee
5 thereof; provided, if the vehicle identification number on the vehicle offered for sale at
6 salvage pools, salvage disposal sales or a classic or antique auction does not match the
7 number recorded on the ownership record, the inspection may be conducted at the
8 location of or place of business of such sale or auction by any state, county or city law
9 enforcement officer. The Tax Commission may enter into reciprocal agreements with
10 other states for such inspections to be performed at locations outside the boundaries of
11 this state for vehicles which:

- 12 1. Are offered for sale at auction;
- 13 2. Have been solely used as vehicles for rent under the ownership of a licensed
14 motor vehicle dealer or a person engaged in the business of renting motor vehicles; or
- 15 3. Have not been registered in this or any other state for more than one (1) year.

16 The inspection shall be certified upon forms prescribed by the Tax Commission. The
17 name and other identification of the authorized person conducting the inspection shall be
18 legibly printed or typed on the form. Prior to any inspection by any employee of a motor
19 license agent, the motor license agent shall notify the Tax Commission of the name and
20 any other identification information requested by the Tax Commission of the authorized
21 person. A signature specimen of the authorized person shall be submitted to the Tax
22 Commission by the employing motor license agent. If the authorization to inspect

1 vehicles is withdrawn or the employer-employee relationship is terminated, the motor
2 license agent, immediately, shall notify the Tax Commission and return any remaining
3 inspection forms to the Tax Commission. The fee for the inspection shall be Four Dollars
4 (\$4.00). The motor license agent shall retain Three Dollars (\$3.00) of the fee. Fees
5 received by a motor license agent or an authorized employee thereof shall be handled and
6 accounted for in the manner as prescribed by law for any other fees paid to or received by
7 a motor license agent. Out-of-state vehicles brought into this state by a person licensed
8 in another state to sell new or used vehicles to be sold within this state at a motor vehicle
9 auction which is limited to dealer to dealer transactions shall not be required to be
10 inspected, unless the vehicle is purchased by an Oklahoma dealer. Any person licensed
11 in another state to sell new or used motor vehicles, who offers a motor vehicle for sale
12 within this state at a motor vehicle auction which is limited to dealer-to-dealer
13 transactions, shall not be within the definition of “owner” in Section 1102 of this title, for
14 purposes of Section 1101 et seq. of this title.

15 N. A licensed motor vehicle dealer, upon payment of a fee of Fifteen Dollars
16 (\$15.00), may reassign an out-of-state certificate of title to a used motor vehicle provided
17 such dealer obtains the appropriate inspection form required by either subsection L or M
18 of this section and attaches the form to the out-of-state certificate of title. Motor license
19 agents shall be allowed to retain Two Dollars and twenty-five cents (\$2.25) of the fee plus
20 an additional Two Dollars (\$2.00) or Three Dollars (\$3.00) as provided in subsections L
21 and M of this section for performance of the inspection. Two Dollars (\$2.00) of the fee
22 shall be deposited in the Tax Commission Reimbursement Fund. An out-of-state vehicle

1 which has been rebuilt shall be inspected pursuant to the provisions of Section 1111 of
2 this title. The Tax Commission shall train motor license agents in interpreting vehicle
3 identification numbers to assure that it accurately describes the vehicle and to detect
4 rollback or alteration of the odometer. Failure of a motor license agent to inspect the
5 vehicle and make the required notations shall be a misdemeanor punishable by a fine of
6 not more than One Thousand Dollars (\$1,000.00) for the first offense and Five Thousand
7 Dollars (\$5,000.00) for the second offense or subsequent offense, or by imprisonment in
8 the county jail for not more than six (6) months, or by both such fine and imprisonment.

9 O. The ownership of any vehicle which has been declared a total loss by an insurer
10 because of theft shall be transferred to the insurer by a salvage title; provided, the
11 ownership of any such vehicle which has been declared a total loss by an insurer licensed
12 by the Oklahoma Insurance Department and maintaining a multi-state motor vehicle
13 salvage processing center in this state shall be transferred to the insurer by a salvage
14 title without the requirement of a visual inspection of the vehicle identification number
15 by the insurer. Upon recovery of the vehicle, the ownership shall be transferred by an
16 original title, salvage title, or junked title, as may be appropriate based upon an estimate
17 of the amount of loss submitted by the insurer.

18 P. The owner of any vehicle which is incapable of operation or use on the public
19 roads and has no resale value, except as parts, scrap or junk, may deliver the certificate
20 of title to the vehicle to the Tax Commission for cancellation. Upon verification that any
21 perfected lien against the vehicle has been released, the certificate of title shall be
22 canceled without any fee, charge, or cost required from the owner. The vehicle

1 identification numbers on the certificates of title shall be preserved in the computer files
2 of the Tax Commission for at least five (5) years from the date of cancellation of the
3 certificate of title. The Tax Commission shall prescribe and provide an affidavit form to
4 be completed by the owner of any vehicle for which the certificate of title is canceled. No
5 title or registration shall subsequently be issued for a vehicle for which the certificate of
6 title has been surrendered pursuant to this subsection. The Tax Commission shall
7 prescribe a form for the transfer of ownership of a vehicle for which the certificate of title
8 has been canceled.

9 Q. The owner of a vehicle which is not within the last ten (10) model years, not
10 roadworthy and not capable of repair for operation or use on the roads and highways
11 shall transfer the vehicle only upon a certificate of ownership prescribed by the Tax
12 Commission, if the certificate of title to the vehicle is lost, has been canceled, or
13 otherwise not available. The prescribed ownership form shall include the names and
14 addresses of the buyer and seller, the driver license number or social security number of
15 the seller, the make and model of the vehicle, and the public vehicle identification
16 number. If there is no public vehicle identification number, the vehicle shall be inspected
17 by a law enforcement officer to verify the absence of the number on the vehicle and the
18 prescribed ownership form shall include a signed statement, by such officer, verifying the
19 absence of the number.

20 The certificate of ownership shall be completed in triplicate. The buyer and seller
21 shall each retain a copy. Within thirty (30) days of the transaction, the seller shall
22 submit one copy to the Tax Commission or a motor license agent accompanied with a fee

1 of Four Dollars (\$4.00). One Dollar (\$1.00) shall be retained by the motor license agent
2 and Three Dollars (\$3.00) shall be deposited in the Oklahoma Tax Commission
3 Reimbursement Fund in the State Treasury.

4 Upon receipt of the certificate, the Tax Commission shall verify that any perfected
5 lien upon the vehicle has been released. If the lien is not released, the Tax Commission
6 shall mail notice of the transfer to the lienholder at the lienholder's last-known address.
7 If a certificate of title has been issued, it shall be canceled and the vehicle identification
8 number shall be preserved in the computer of the Tax Commission for at least five (5)
9 years. The buyer of the vehicle may not be sued and shall not be liable for monetary
10 damages to the lienholder, however, the vehicle shall be subject to a valid repossession by
11 a lienholder.

12 R. The Tax Commission shall notify the chief administrative officer of the agency or
13 department responsible for issuing motor vehicle certificates of title in each state in the
14 United States of the types of motor vehicle certificate of title effective in Oklahoma on
15 and after January 1, 1989.

16 S. When registering for the first time in this state a remanufactured vehicle which
17 has not been registered in any other state since its remanufacture, before issuing a
18 certificate of title, the Tax Commission shall require the applicant to deliver a statement
19 of origin from the remanufacturer.

20 T. If a vehicle is sold to a foreign buyer pursuant to the provisions of the
21 Automotive Dismantlers and Parts Recycler Act, the licensed seller shall stamp the title
22 with: "EXPORT ONLY. NONTRANSFERABLE IN THE UNITED STATES." The

1 licensed seller shall supply the Tax Commission the title number, the vehicle
2 identification number and the foreign buyer's bid identification number on a form
3 prescribed by the Tax Commission. The Tax Commission shall cancel the title, and the
4 vehicle identification number shall be preserved in the computer files of the Tax
5 Commission for a period of not less than five (5) years.

6 U. The Tax Commission shall not be considered a necessary party to any lawsuit
7 which is instigated for the purpose of determining ownership of a vehicle, wherein the
8 Tax Commission's only involvement would be to issue title, and the court shall issue an
9 order dismissing the Tax Commission from the pending action. In the event no other
10 party or lien holder can be identified as to ownership or claim, the Tax Commission shall
11 accept an affidavit of ownership from the party claiming ownership and issue proper title
12 thereon.

13 SECTION 2. AMENDATORY 47 O.S. 2001, Section 1110, as last amended by
14 Section 1, Chapter 85, O.S.L. 2004 (47 O.S. Supp. 2006, Section 1110), is amended to
15 read as follows:

16 Section 1110. A. 1. Except for a security interest in vehicles held by a dealer for
17 sale or lease, a vehicle registered by a federally recognized Indian tribe as provided in
18 subsection G of this section, and a vehicle being registered in this state which was
19 previously registered in another state and which title contains the name of a secured
20 party on the face of the other state certificate or title, and except as otherwise provided in
21 subsection B of Section 1105 of this title, a security interest in a vehicle as to which a
22 certificate of title may be properly issued by the Oklahoma Tax Commission shall be

1 perfected only when a lien entry form, and the existing certificate of title, if any, or
2 application for a certificate of title and manufacturer's certificate of origin containing the
3 name and address of the secured party and the date of the security agreement and the
4 required fee are delivered to the Tax Commission or to a motor license agent. As used in
5 this section, the term "dealer" shall be defined as provided in Section 1-112 of this title
6 and the term "security interest" shall be defined as provided in paragraph (37) of Section
7 1-201 of Title 12A of the Oklahoma Statutes. When a vehicle title is presented to a motor
8 license agent for transferring or registering and the documents reflect a lien holder, the
9 motor license agent shall perfect the lien pursuant to subsection G of Section 1105 of this
10 title. For the purposes of this section, the term "vehicle" shall not include special
11 mobilized machinery, machinery used in highway construction or road material
12 construction and rubber-tired road construction vehicles including rubber-tired cranes.
13 The filing and duration of perfection of a security interest, pursuant to the provisions of
14 Title 12A of the Oklahoma Statutes, including, but not limited to, Section 1-9-311 of Title
15 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests
16 in vehicles as to which a certificate of title may be properly issued by the Tax
17 Commission, except as to vehicles held by a dealer for sale or lease and except as
18 provided in subsection D of this section. In all other respects Title 12A of the Oklahoma
19 Statutes shall be applicable to such security interests in vehicles as to which a certificate
20 of title may be properly issued by the Tax Commission.

21 2. Whenever a person creates a security interest in a vehicle, the person shall
22 surrender to the secured party the certificate of title or the signed application for a new

1 certificate of title, on the form prescribed by the Tax Commission, and the
2 manufacturer's certificate of origin. The secured party shall deliver the lien entry form
3 and the required lien filing fee within twenty-five (25) days as provided hereafter with
4 certificate of title or the application for certificate of title and the manufacturer's
5 certificate of origin to the Tax Commission or to a motor license agent. If the lien entry
6 form, the lien filing fee and the certificate of title or application for certificate of title and
7 the manufacturer's certificate of origin are delivered to the Tax Commission or to a motor
8 license agent within twenty-five (25) days after the date of the lien entry form, perfection
9 of the security interest shall begin from the date of the execution of the lien entry form,
10 but otherwise, perfection of the security interest shall begin from the date of the delivery
11 to the Tax Commission or to a motor license agent.

12 3. a. For each security interest recorded on a certificate of title, or
13 manufacturer's certificate of origin, such person shall pay a fee of Ten
14 Dollars (\$10.00), which shall be in addition to other fees provided for in
15 the Oklahoma Vehicle License and Registration Act. Upon the receipt
16 of the lien entry form and the required fees with either the certificate
17 of title or an application for certificate of title and manufacturer's
18 certificate of origin, a motor license agent shall, by placement of a
19 clearly distinguishing mark, record the date and number shown in a
20 conspicuous place, on each of these instruments. Of the ten-dollar fee,
21 the motor license agent shall retain Two Dollars (\$2.00) for recording
22 the security interest lien.

1 b. It shall be unlawful for any person to solicit, accept or receive any
2 gratuity or compensation for acting as a messenger and for acting as
3 the agent or representative of another person in applying for the
4 recording of a security interest or for the registration of a motor vehicle
5 and obtaining the license plates or for the issuance of a certificate of
6 title therefor unless the Tax Commission has appointed and approved
7 the person to perform such acts; and before acting as a messenger, any
8 such person shall furnish to the Tax Commission a surety bond in such
9 amount as the Tax Commission shall determine appropriate.

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

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

21 6. The lien entry form with the date and assigned number thereof clearly marked
22 thereon shall be returned to the secured party. If the lien entry form is received and

1 authenticated, as herein provided, by a motor license agent, the agent shall make a
2 report thereof to the Tax Commission upon the forms and in the manner as may be
3 prescribed by the Tax Commission.

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

7 B. 1. A secured party shall, within seven (7) business days after the satisfaction of
8 the security interest, furnish directly or by mail a release of a security interest to the Tax
9 Commission and mail a copy thereof to the last-known address of the debtor. If the
10 security interest has been satisfied by payment from a licensed used motor vehicle dealer
11 to whom the motor vehicle has been transferred, the secured party shall also, within
12 seven (7) business days after such satisfaction, mail an additional copy of the release to
13 the dealer. If the secured party fails to furnish the release as required, the secured party
14 shall be liable to the debtor for a penalty of One Hundred Dollars (\$100.00) and, in
15 addition, any loss caused to the debtor by such failure.

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

- 19 a. a release signed by the secured party, an application for new certificate
20 of title and the proper fees, or
21 b. by submitting to the Tax Commission or the motor license agent an
22 affidavit, supported by such documentation as the Tax Commission

1 may require, by the owner on a form prescribed by the Tax
2 Commission stating that the security interest has been satisfied and
3 stating the reasons why a release cannot be obtained, an application
4 for a new certificate of title and the proper fees.

5 Upon receiving such affidavit that the security interest has been satisfied, the Tax
6 Commission shall issue a new certificate of title eliminating the satisfied security
7 interest and the name and address of the secured parties who have been paid and
8 satisfied. The Tax Commission shall accept a release of a security interest in any form
9 that identifies the debtor, the secured party, and the vehicle, and contains the signature
10 of the secured party. The Tax Commission shall not require any particular form for the
11 release of a security interest.

12 The words "security interest" when used in the Oklahoma Vehicle License and
13 Registration Act do not include liens dependent upon possession.

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

20 D. 1. Any security interest in a vehicle properly perfected prior to July 1, 1979,
21 may be continued as to its effectiveness or duration as provided by Sections 1-9-501 and
22 1-9-515 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or

1 released as provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of the
2 Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of
3 the secured party, may also be perfected under this section, and, if so perfected, the time
4 of perfection under this section shall be the date the security interest was originally
5 perfected under the prior law.

6 2. Upon request of the secured party, the debtor or any other holder of the
7 certificate of title shall surrender the certificate of title to the secured party and shall do
8 such other acts as may be required to perfect the security interest under this section.

9 E. If a manufactured home is permanently affixed to real estate, the original
10 document of title may be surrendered to the Tax Commission or a motor license agent for
11 cancellation. When the document of title is surrendered, the owner shall provide the
12 legal description or the appropriate tract or parcel number of the real estate and other
13 information as may be required on a form provided by the Tax Commission. The Tax
14 Commission may not cancel a document of title if a lien has been registered or recorded.
15 The Tax Commission or motor license agent shall notify the owner and any lienholder
16 that the title has been surrendered to the Tax Commission and that the Tax Commission
17 may not cancel the title until the lien is released. Such notification shall include a
18 description of the lien and such notification to the owner shall be accompanied by the
19 return of title surrendered. Permanent attachment to real estate does not affect the
20 validity of a lien recorded or registered with the Tax Commission before the document of
21 title is cancelled pursuant to this section. The rights of a prior lienholder pursuant to a
22 security agreement or the provisions of a credit transaction and the rights of the state

1 pursuant to a tax lien are preserved. The Tax Commission or motor license agent shall
2 forward the information to the county assessor of the county where the real estate is
3 located and indicate whether the original document of title has been canceled. A fee of
4 Five Dollars (\$5.00) shall accompany the application for cancellation of title. When the
5 fee is paid by a person making an application directly with the Tax Commission, the fee
6 shall be deposited in the Oklahoma Tax Commission Revolving Fund. A fee paid to a
7 motor license agent shall be retained by the agent. A security interest in a manufactured
8 home perfected pursuant to this section shall have priority over a conflicting interest of a
9 mortgagee or other lien encumbrancer, or the owner of the real property upon which the
10 manufactured home became affixed or otherwise permanently attached. The holder of
11 the security interest in the manufactured home, upon default, may remove the
12 manufactured home from such real property. The holder of the security interest in the
13 manufactured home shall reimburse the owner of the real property who is not the debtor
14 and who has not otherwise agreed to access the real property for the cost of repair of any
15 physical injury to the real property, but shall not be liable for any diminution in value to
16 the real property caused by the removal of the manufactured home, trespass, or any
17 other damages caused by the removal. The debtor shall notify the holder of the security
18 interest in the manufactured home of the street address, if any, and the legal description
19 of the real property upon which the manufactured home is affixed or otherwise
20 permanently attached and shall sign such other documents, including any appropriate
21 mortgage, as may reasonably be requested by the holder of such security interest.

1 F. In the case of motor vehicles or trailers, notwithstanding any other provision of
2 law, a transaction does not create a sale or security interest merely because it provides
3 that the rental price is permitted or required to be adjusted under the agreement either
4 upward or downward by reference to the amount realized upon sale or other disposition
5 of the motor vehicle or trailer.

6 G. A security interest in vehicles registered by a federally recognized Indian tribe
7 shall be deemed valid under Oklahoma law if validly perfected under the applicable
8 tribal law and the lien is noted on the face of the tribal certificate of title.

9 SECTION 3. This act shall become effective November 1, 2007.

10 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
11 TRANSPORTATION, dated 02-28-07 - DO PASS, As Coauthored.