

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2845

By: Ownbey

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6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2011, Section 1110, which relates to security
9 interests; providing lien release alternative;
10 defining term; and providing an effective date.

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

13 SECTION 1. AMENDATORY 47 O.S. 2011, Section 1110, is
14 amended to read as follows:

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

1 the existing certificate of title, if any, or application for a
2 certificate of title and manufacturer's certificate of origin
3 containing the name and address of the secured party and the date of
4 the security agreement and the required fee are delivered to the Tax
5 Commission or to a motor license agent. As used in this section,
6 the term "dealer" shall be defined as provided in Section 1-112 of
7 this title and the term "security interest" shall be defined as
8 provided in paragraph (35) of Section 1-201 of Title 12A of the
9 Oklahoma Statutes. When a vehicle title is presented to a motor
10 license agent for transferring or registering and the documents
11 reflect a lien holder, the motor license agent shall perfect the
12 lien pursuant to subsection G of Section 1105 of this title. For
13 the purposes of this section, the term "vehicle" shall not include
14 special mobilized machinery, machinery used in highway construction
15 or road material construction and rubber-tired road construction
16 vehicles including rubber-tired cranes. The filing and duration of
17 perfection of a security interest, pursuant to the provisions of
18 Title 12A of the Oklahoma Statutes, including, but not limited to,
19 Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be
20 applicable to perfection of security interests in vehicles as to
21 which a certificate of title may be properly issued by the Tax
22 Commission, except as to vehicles held by a dealer for sale or lease
23 and except as provided in subsection D of this section. In all
24 other respects Title 12A of the Oklahoma Statutes shall be

1 applicable to such security interests in vehicles as to which a
2 certificate of title may be properly issued by the Tax Commission.

3 2. Whenever a person creates a security interest in a vehicle,
4 the person shall surrender to the secured party the certificate of
5 title or the signed application for a new certificate of title, on
6 the form prescribed by the Tax Commission, and the manufacturer's
7 certificate of origin. The secured party shall deliver the lien
8 entry form and the required lien filing fee within twenty-five (25)
9 days as provided hereafter with certificate of title or the
10 application for certificate of title and the manufacturer's
11 certificate of origin to the Tax Commission or to a motor license
12 agent. If the lien entry form, the lien filing fee and the
13 certificate of title or application for certificate of title and the
14 manufacturer's certificate of origin are delivered to the Tax
15 Commission or to a motor license agent within twenty-five (25) days
16 after the date of the lien entry form, perfection of the security
17 interest shall begin from the date of the execution of the lien
18 entry form, but otherwise, perfection of the security interest shall
19 begin from the date of the delivery to the Tax Commission or to a
20 motor license agent.

21 3. a. For each security interest recorded on a certificate
22 of title, or manufacturer's certificate of origin,
23 such person shall pay a fee of Ten Dollars (\$10.00),
24 which shall be in addition to other fees provided for

1 in the Oklahoma Vehicle License and Registration Act.
2 Upon the receipt of the lien entry form and the
3 required fees with either the certificate of title or
4 an application for certificate of title and
5 manufacturer's certificate of origin, a motor license
6 agent shall, by placement of a clearly distinguishing
7 mark, record the date and number shown in a
8 conspicuous place, on each of these instruments. Of
9 the ten-dollar fee, the motor license agent shall
10 retain Two Dollars (\$2.00) for recording the security
11 interest lien.

12 b. It shall be unlawful for any person to solicit, accept
13 or receive any gratuity or compensation for acting as
14 a messenger and for acting as the agent or
15 representative of another person in applying for the
16 recording of a security interest or for the
17 registration of a motor vehicle and obtaining the
18 license plates or for the issuance of a certificate of
19 title therefor unless the Tax Commission has appointed
20 and approved the person to perform such acts; and
21 before acting as a messenger, any such person shall
22 furnish to the Tax Commission a surety bond in such
23 amount as the Tax Commission shall determine
24 appropriate.

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

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

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

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

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

16 b. When an insurance company makes a total loss
17 settlement, the insurance company or a salvage pool
18 authorized by the insurance company may provide a copy
19 of the letter of guarantee signed by the lienholder
20 and evidence from the claim file of the insurance
21 company of payment of the amount specified in the
22 letter of guarantee in lieu of a release of a security
23 interest. Except for the lien entry form required by
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1 this section, no other evidence may be required by
2 rule in order to comply with this subparagraph.

3 c. As used in this section, the phrase "letter of
4 guarantee" shall mean a document guaranteeing the
5 release of lien or title for a specified payment
6 amount.

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

- 11 a. a release signed by the secured party, an application
12 for new certificate of title and the proper fees, or
13 b. by submitting to the Tax Commission or the motor
14 license agent an affidavit, supported by such
15 documentation as the Tax Commission may require, by
16 the owner on a form prescribed by the Tax Commission
17 stating that the security interest has been satisfied
18 and stating the reasons why a release cannot be
19 obtained, an application for a new certificate of
20 title and the proper fees.

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

1 Commission shall accept a release of a security interest in any form
2 that identifies the debtor, the secured party, and the vehicle, and
3 contains the signature of the secured party. The Tax Commission
4 shall not require any particular form for the release of a security
5 interest.

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

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

17 D. 1. Any security interest in a vehicle properly perfected
18 prior to July 1, 1979, may be continued as to its effectiveness or
19 duration as provided by Sections 1-9-501 and 1-9-515 of Title 12A of
20 the Oklahoma Statutes, or may be terminated, assigned or released as
21 provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of
22 the Oklahoma Statutes, as fully as if this section had not been
23 enacted, or, at the option of the secured party, may also be
24 perfected under this section, and, if so perfected, the time of

1 perfection under this section shall be the date the security
2 interest was originally perfected under the prior law.

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

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

1 and the rights of the state pursuant to a tax lien are preserved.
2 The Tax Commission or motor license agent shall forward the
3 information to the county assessor of the county where the real
4 estate is located and indicate whether the original document of
5 title has been canceled. A fee of Five Dollars (\$5.00) shall
6 accompany the application for cancellation of title. When the fee
7 is paid by a person making an application directly with the Tax
8 Commission, the fee shall be deposited in the Oklahoma Tax
9 Commission Revolving Fund. A fee paid to a motor license agent
10 shall be retained by the agent. The owner of a manufactured home
11 upon which the document of title has been properly surrendered, may
12 apply to the Tax Commission for issuance of a new original
13 certificate of title upon submission of: (1) an attestation from the
14 homeowner indicating ownership of the manufactured home and the
15 nonexistence of any security interest or lien of record in the
16 manufactured home, and (2) a title opinion by a licensed attorney,
17 determining that the owner of the manufactured home has marketable
18 title to the real property upon which the manufactured home is
19 located and that no documents filed of record in the county clerk's
20 office concerning the real property contain a mortgage, recorded
21 financial statement, judgment, or lien of record. Persons or
22 entities to whom the title opinion is addressed may rely on said
23 title opinion. A security interest in a manufactured home perfected
24 pursuant to this section shall have priority over a conflicting

1 interest of a mortgagee or other lien encumbrancer, or the owner of
2 the real property upon which the manufactured home became affixed or
3 otherwise permanently attached. The holder of the security interest
4 in the manufactured home, upon default, may remove the manufactured
5 home from such real property. The holder of the security interest
6 in the manufactured home shall reimburse the owner of the real
7 property who is not the debtor and who has not otherwise agreed to
8 access the real property for the cost of repair of any physical
9 injury to the real property, but shall not be liable for any
10 diminution in value to the real property caused by the removal of
11 the manufactured home, trespass, or any other damages caused by the
12 removal. The debtor shall notify the holder of the security
13 interest in the manufactured home of the street address, if any, and
14 the legal description of the real property upon which the
15 manufactured home is affixed or otherwise permanently attached and
16 shall sign such other documents, including any appropriate mortgage,
17 as may reasonably be requested by the holder of such security
18 interest.

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

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

5 SECTION 2. This act shall become effective November 1, 2012.

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