

1 ENGROSSED SENATE
BILL NO. 465

By: Quinn of the Senate

2
3 and

4 Ownbey of the House

5
6 [motor vehicle certificates of title - lien release
- effective date]
7

8
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

19 3. a. For each security interest recorded on a certificate
20 of title, or manufacturer's certificate of origin,
21 such person shall pay a fee of Ten Dollars (\$10.00),
22 which shall be in addition to other fees provided for
23 in the Oklahoma Vehicle License and Registration Act.
24 Upon the receipt of the lien entry form and the

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

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

23 4. The certificate of title or the application for certificate
24 of title and manufacturer's certificate of origin with the record of

1 the date of receipt clearly marked thereon shall be returned to the
2 debtor together with a notice that the debtor is required to
3 register and pay all additional fees and taxes due within thirty
4 (30) days from the date of purchase of the vehicle.

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

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

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

22 B. 1. a. A secured party shall, within seven (7) business days
23 after the satisfaction of the security interest,
24 furnish directly or by mail a release of a security

1 interest to the Tax Commission and mail a copy thereof
2 to the last-known address of the debtor. If the
3 security interest has been satisfied by payment from a
4 licensed used motor vehicle dealer to whom the motor
5 vehicle has been transferred, the secured party shall
6 also, within seven (7) business days after such
7 satisfaction, mail an additional copy of the release
8 to the dealer. If the secured party fails to furnish
9 the release as required, the secured party shall be
10 liable to the debtor for a penalty of One Hundred
11 Dollars (\$100.00). Following the seven (7) business
12 days after satisfaction of the lien and upon receipt
13 by the lienholder of written communication demanding
14 the release of the lien, thereafter the penalty shall
15 increase to One Hundred Dollars (\$100.00) per day for
16 each additional day beyond seven (7) business days
17 until accumulating to One Thousand Five Hundred
18 Dollars (\$1,500.00) or the value of the vehicle,
19 whichever is less, and, in addition, any loss caused
20 to the debtor by such failure.

21 b. In the event an insurer makes a total loss settlement
22 on a vehicle, the insurer, or salvage pool authorized
23 by the insurer, may, anytime after ten (10) days
24 following the satisfaction of the security interest,

1 provide to the Tax Commission or a motor license agent
2 in lieu of a lien release:

3 (1) a copy of the letter of guarantee signed by the
4 lienholder,

5 (2) proof that the security interest has been
6 satisfied by the insurer in the amount specified
7 in the letter of guarantee, and

8 (3) a statement from the insurer that payment in the
9 referenced amount has been remitted to the
10 lienholder by certified mail in satisfaction of
11 the lien. For purposes of this subparagraph,
12 "letter of guarantee" shall mean a document
13 guaranteeing the release of lien or title for a
14 specified payment amount.

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

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

21 b. by submitting to the Tax Commission or the motor
22 license agent an affidavit, supported by such
23 documentation as the Tax Commission may require, by
24 the owner on a form prescribed by the Tax Commission

1 stating that the security interest has been satisfied
2 and stating the reasons why a release cannot be
3 obtained, an application for a new certificate of
4 title and the proper fees.

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

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

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

1 D. 1. Any security interest in a vehicle properly perfected
2 prior to July 1, 1979, may be continued as to its effectiveness or
3 duration as provided by Sections 1-9-501 and 1-9-515 of Title 12A of
4 the Oklahoma Statutes, or may be terminated, assigned or released as
5 provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of
6 the Oklahoma Statutes, as fully as if this section had not been
7 enacted, or, at the option of the secured party, may also be
8 perfected under this section, and, if so perfected, the time of
9 perfection under this section shall be the date the security
10 interest was originally perfected under the prior law.

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

15 E. If a manufactured home is permanently affixed to real
16 estate, the original document of title may be surrendered to the Tax
17 Commission or a motor license agent for cancellation. When the
18 document of title is surrendered, the owner shall provide the legal
19 description or the appropriate tract or parcel number of the real
20 estate and other information as may be required on a form provided
21 by the Tax Commission. The Tax Commission may not cancel a document
22 of title if a lien has been registered or recorded. The Tax
23 Commission or motor license agent shall notify the owner and any
24 lienholder that the title has been surrendered to the Tax Commission

1 and that the Tax Commission may not cancel the title until the lien
2 is released. Such notification shall include a description of the
3 lien and such notification to the owner shall be accompanied by the
4 return of title surrendered. Permanent attachment to real estate
5 does not affect the validity of a lien recorded or registered with
6 the Tax Commission before the document of title is cancelled
7 pursuant to this section. The rights of a prior lienholder pursuant
8 to a security agreement or the provisions of a credit transaction
9 and the rights of the state pursuant to a tax lien are preserved.
10 The Tax Commission or motor license agent shall forward the
11 information to the county assessor of the county where the real
12 estate is located and indicate whether the original document of
13 title has been canceled. A fee of Five Dollars (\$5.00) shall
14 accompany the application for cancellation of title. When the fee
15 is paid by a person making an application directly with the Tax
16 Commission, the fee shall be deposited in the Oklahoma Tax
17 Commission Revolving Fund. A fee paid to a motor license agent
18 shall be retained by the agent. The owner of a manufactured home
19 upon which the document of title has been properly surrendered, may
20 apply to the Tax Commission for issuance of a new original
21 certificate of title upon submission of: (1) an attestation from the
22 homeowner indicating ownership of the manufactured home and the
23 nonexistence of any security interest or lien of record in the
24 manufactured home, and (2) a title opinion by a licensed attorney,

1 determining that the owner of the manufactured home has marketable
2 title to the real property upon which the manufactured home is
3 located and that no documents filed of record in the county clerk's
4 office concerning the real property contain a mortgage, recorded
5 financial statement, judgment, or lien of record. Persons or
6 entities to whom the title opinion is addressed may rely on ~~said~~ the
7 title opinion. A security interest in a manufactured home perfected
8 pursuant to this section shall have priority over a conflicting
9 interest of a mortgagee or other lien encumbrancer, or the owner of
10 the real property upon which the manufactured home became affixed or
11 otherwise permanently attached. The holder of the security interest
12 in the manufactured home, upon default, may remove the manufactured
13 home from such real property. The holder of the security interest
14 in the manufactured home shall reimburse the owner of the real
15 property who is not the debtor and who has not otherwise agreed to
16 access the real property for the cost of repair of any physical
17 injury to the real property, but shall not be liable for any
18 diminution in value to the real property caused by the removal of
19 the manufactured home, trespass, or any other damages caused by the
20 removal. The debtor shall notify the holder of the security
21 interest in the manufactured home of the street address, if any, and
22 the legal description of the real property upon which the
23 manufactured home is affixed or otherwise permanently attached and
24 shall sign such other documents, including any appropriate mortgage,

1 as may reasonably be requested by the holder of such security
2 interest.

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

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

13 SECTION 2. This act shall become effective November 1, 2015.

14 Passed the Senate the 11th day of March, 2015.

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16 _____
17 Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2015.

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21 _____
22 Presiding Officer of the House
23 of Representatives
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