

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 127

By: Smalley

6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2011, Section 1110, as amended by Section 1, Chapter
224, O.S.L. 2015 (47 O.S. Supp. 2016, Section 1110),
9 which relates to the perfection of security
interests; increasing time period for filing of
10 certain forms and fees; clarifying language; and
providing an effective date.

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

14 SECTION 1. AMENDATORY 47 O.S. 2011, Section 1110, as
15 amended by Section 1, Chapter 224, O.S.L. 2015 (47 O.S. Supp. 2016,
16 Section 1110), is amended to read as follows:

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

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

1 and except as provided in subsection D of this section. In all
2 other respects Title 12A of the Oklahoma Statutes shall be
3 applicable to such security interests in vehicles as to which a
4 certificate of title may be properly issued by the Tax Commission.

5 2. Whenever a person creates a security interest in a vehicle,
6 the person shall surrender to the secured party the certificate of
7 title or the signed application for a new certificate of title, on
8 the form prescribed by the Tax Commission, and the manufacturer's
9 certificate of origin. The secured party shall deliver the lien
10 entry form and the required lien filing fee within ~~twenty-five (25)~~
11 thirty (30) days as provided hereafter with certificate of title or
12 the application for certificate of title and the manufacturer's
13 certificate of origin to the Tax Commission or to a motor license
14 agent. If the lien entry form, the lien filing fee and the
15 certificate of title or application for certificate of title and the
16 manufacturer's certificate of origin are delivered to the Tax
17 Commission or to a motor license agent within ~~twenty-five (25)~~
18 thirty (30) days after the date of the lien entry form, perfection
19 of the security interest shall begin from the date of the execution
20 of the lien entry form, but otherwise, perfection of the security
21 interest shall begin from the date of the delivery to the Tax
22 Commission or to a motor license agent.

23 3. a. For each security interest recorded on a certificate
24 of title, or manufacturer's certificate of origin,

1 such person shall pay a fee of Ten Dollars (\$10.00),
2 which shall be in addition to other fees provided for
3 in the Oklahoma Vehicle License and Registration Act.
4 Upon the receipt of the lien entry form and the
5 required fees with either the certificate of title or
6 an application for certificate of title and
7 manufacturer's certificate of origin, a motor license
8 agent shall, by placement of a clearly distinguishing
9 mark, record the date and number shown in a
10 conspicuous place, on each of these instruments. Of
11 the ten-dollar fee, the motor license agent shall
12 retain Two Dollars (\$2.00) for recording the security
13 interest lien.

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

1 amount as the Tax Commission shall determine
2 appropriate.

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

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

17 6. The lien entry form with the date and assigned number
18 thereof clearly marked thereon shall be returned to the secured
19 party. If the lien entry form is received and authenticated, as
20 herein provided, by a motor license agent, the agent shall make a
21 report thereof to the Tax Commission upon the forms and in the
22 manner as may be prescribed by the Tax Commission.
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1 7. The Tax Commission shall have the duty to record the lien
2 upon the face of the certificate of title issued at the time of
3 registering and paying all fees and taxes due on the vehicle.

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

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

- 3 a. a release signed by the secured party, an application
4 for new certificate of title and the proper fees, or
- 5 b. ~~by submitting to the Tax Commission or the motor~~
6 ~~license agent~~ an affidavit, supported by such
7 documentation as the Tax Commission may require, by
8 the owner on a form prescribed by the Tax Commission
9 stating that the security interest has been satisfied
10 and stating the reasons why a release cannot be
11 obtained, an application for a new certificate of
12 title and the proper fees.

13 Upon receiving such affidavit that the security interest has been
14 satisfied, the Tax Commission shall issue a new certificate of title
15 eliminating the satisfied security interest and the name and address
16 of the secured parties who have been paid and satisfied. The Tax
17 Commission shall accept a release of a security interest in any form
18 that identifies the debtor, the secured party, and the vehicle, and
19 contains the signature of the secured party. The Tax Commission
20 shall not require any particular form for the release of a security
21 interest.

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

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

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

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

23 E. If a manufactured home is permanently affixed to real
24 estate, the original document of title may be surrendered to the Tax

1 Commission or a motor license agent for cancellation. When the
2 document of title is surrendered, the owner shall provide the legal
3 description or the appropriate tract or parcel number of the real
4 estate and other information as may be required on a form provided
5 by the Tax Commission. The Tax Commission may not cancel a document
6 of title if a lien has been registered or recorded. The Tax
7 Commission or motor license agent shall notify the owner and any
8 lienholder that the title has been surrendered to the Tax Commission
9 and that the Tax Commission may not cancel the title until the lien
10 is released. Such notification shall include a description of the
11 lien and such notification to the owner shall be accompanied by the
12 return of title surrendered. Permanent attachment to real estate
13 does not affect the validity of a lien recorded or registered with
14 the Tax Commission before the document of title is cancelled
15 pursuant to this section. The rights of a prior lienholder pursuant
16 to a security agreement or the provisions of a credit transaction
17 and the rights of the state pursuant to a tax lien are preserved.
18 The Tax Commission or motor license agent shall forward the
19 information to the county assessor of the county where the real
20 estate is located and indicate whether the original document of
21 title has been canceled. A fee of Five Dollars (\$5.00) shall
22 accompany the application for cancellation of title. When the fee
23 is paid by a person making an application directly with the Tax
24 Commission, the fee shall be deposited in the Oklahoma Tax

1 Commission Revolving Fund. A fee paid to a motor license agent
2 shall be retained by the agent. The owner of a manufactured home
3 upon which the document of title has been properly surrendered, may
4 apply to the Tax Commission for issuance of a new original
5 certificate of title upon submission of: (1) an attestation from the
6 homeowner indicating ownership of the manufactured home and the
7 nonexistence of any security interest or lien of record in the
8 manufactured home, and (2) a title opinion by a licensed attorney,
9 determining that the owner of the manufactured home has marketable
10 title to the real property upon which the manufactured home is
11 located and that no documents filed of record in the county clerk's
12 office concerning the real property contain a mortgage, recorded
13 financial statement, judgment, or lien of record. Persons or
14 entities to whom the title opinion is addressed may rely on the
15 title opinion. A security interest in a manufactured home perfected
16 pursuant to this section shall have priority over a conflicting
17 interest of a mortgagee or other lien encumbrancer, or the owner of
18 the real property upon which the manufactured home became affixed or
19 otherwise permanently attached. The holder of the security interest
20 in the manufactured home, upon default, may remove the manufactured
21 home from such real property. The holder of the security interest
22 in the manufactured home shall reimburse the owner of the real
23 property who is not the debtor and who has not otherwise agreed to
24 access the real property for the cost of repair of any physical

1 injury to the real property, but shall not be liable for any
2 diminution in value to the real property caused by the removal of
3 the manufactured home, trespass, or any other damages caused by the
4 removal. The debtor shall notify the holder of the security
5 interest in the manufactured home of the street address, if any, and
6 the legal description of the real property upon which the
7 manufactured home is affixed or otherwise permanently attached and
8 shall sign such other documents, including any appropriate mortgage,
9 as may reasonably be requested by the holder of such security
10 interest.

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

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

21 SECTION 2. This act shall become effective November 1, 2017.

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