

An Act

ENROLLED HOUSE
BILL NO. 1153

By: Osburn of the House

and

Garvin of the Senate

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 581, as last amended by Section 3, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020, Section 581), which relates to definitions; modifying definitions; amending 47 O.S. 2011, Section 583, as last amended by Section 24, Chapter 161, O.S.L. 2020 (47 O.S. Supp. 2020, Section 583), which relates to required licensure; requiring bond for certain dealers; requiring certain service for manufactured homes in use in the state; requiring certain transactions go through licensed dealers; amending 47 O.S. 2011, Section 1110, as last amended by Section 1 of Enrolled House Bill No. 2056 of the 1st Session of the 58th Oklahoma Legislature, which relates to perfection of security interest; requiring certain certificate of title be surrendered; amending 68 O.S. 2011, Section 2812, which relates to manufactured homes; clarifying language; and providing an effective date.

SUBJECT: Motor vehicles

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 581, as last amended by Section 3, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020, Section 581), is amended to read as follows:

Section 581. As used in Section 581 et seq. of this title:

1. "Commission" means the Oklahoma Used Motor Vehicle and Parts Commission;

2. "Compensation" means anything of value including money, merchandise, rebates on purchases, trading stamps or any other thing of value;

3. "Consignment sale" means the sale of used motor vehicles belonging to another by a used motor vehicle dealer, whether or not title is transferred from the consignor to the used motor vehicle dealer;

4. "Factory" means a manufacturer, distributor, factory branch, distributor branch, factory representative or distributor representative, which manufactures or distributes vehicle products;

5. "Manufactured home" means a residential dwelling in one or more sections built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401~~7~~ et seq. and rules promulgated pursuant thereto;

6. a. "Manufactured home dealer" means any person who~~7~~:

(1) works for a commission or with intent to make a profit or gain of money or other thing of value, sells, offers to sell, or attempts to negotiate a sale or exchange of interest in, new or used manufactured homes, ~~or that~~

(2) is engaged wholly or in part in the business of selling any new and unused, or used, or both new and used manufactured homes, or

(3) is engaged wholly or in part in the business of leasing any new and unused, or used, or both new and used manufactured homes, that are considered personal property, with an option to purchase or own in any form at any time after beginning of the lease term.

A valid franchise letter as proof of authorization to sell any new manufactured home product line or lines shall be attached to the application for a dealer license to sell manufactured homes. "Manufactured home dealer" shall include a manufactured home

auction. A manufactured home auction shall mean any person selling more than ~~twenty-five~~ five manufactured homes in an auction or liquidation format. Only licensed manufactured home dealers shall be authorized to purchase manufactured homes at such auctions.

- b. "Manufactured home dealer" shall not include any person who sells or contracts for the sale of a personally titled manufactured home or homes which they have used as their personal residence, or any person acting as an auctioneer who has been engaged by a seller to direct, conduct, control, or be responsible for the sale of such manufactured homes as a part of an auction or liquidation of an estate, or any Oklahoma licensed real estate broker or sales associate when buying or selling ~~used mobile~~ manufactured homes which have become real property as a part of a real estate business. No person shall be considered a manufactured home dealer as to any manufactured home purchased or acquired by the person for purposes other than resale or lease-purchase in any form; provided, that the restriction set forth in this sentence shall not prevent an otherwise qualified person from utilizing a single manufactured home as a sales office.
- c. A holder of a lien on a personally titled manufactured home may sell, ~~exchange, or transfer by lease-purchase~~ the repossessed manufactured home and shall not be required to be licensed pursuant to this ~~chapter~~ title. ~~If Any person other than a bona fide full-time employee of the lienholder contracts with a person or company to sell who participates in the sale of the repossessed manufactured home and the person or company is not an employee, officer or principal of the lienholder, such person or company shall be licensed as a manufactured home dealer pursuant to this chapter title.~~
- d. "Manufactured home dealer" shall not include ~~any person who sells mobile or manufactured homes located in a mobile or a restricted~~ community dealer;

7. "Manufactured home salesperson" means any person who has been engaged by a manufactured home dealer or restricted manufactured home park dealer to buy, sell, exchange, negotiate, or act as an agent for the purchase, sale, or exchange of an interest in a manufactured home;

8. "Manufactured home installer" means a person who is engaged in the business of installing or setting up manufactured homes and/or mobile homes as defined herein;

9. "Manufactured home manufacturer" means a person who manufactures, assembles, ~~and~~ sells or distributes new manufactured homes, whether directly or indirectly, to new manufactured home retailers or a restricted manufactured home park dealer for resale or use in this state;

10. "Mobile home" means a residential dwelling fabricated in an off-site manufacturing facility, designed to be a permanent residence, but which is still transportable, that was built prior to the enacting of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq.;

11. "Person" means an individual, business, corporation, partnership, association, limited liability corporation, trust, firm, or company or legal entity, but does not include any political subdivision;

12. "Ready for occupancy" means a mobile or manufactured home which is installed and anchored properly by a manufactured home installer licensed in this state and has utilities connected to service;

13. "Rebuilder" means a used motor vehicle dealer who is engaged in the business of rebuilding repairable motor vehicles and who has paid the fee for and been issued a rebuilder certificate as provided by Section 591.5 of this title;

14. "Restricted manufactured home park dealer" means any person operating a mobile or manufactured home park who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, offers to sell, or attempts to negotiate a sale or exchange of interest in, new or used manufactured homes, or that is engaged wholly or in part in the business of selling or leasing manufactured homes which are personal property with an option to purchase or own in any form at any time after the beginning of the

lease term any new and unused, or used, or both new and used manufactured homes; provided, every mobile or manufactured home sold pursuant to a restricted manufactured home park dealer license shall be located in the licensed mobile or manufactured home park and ready for occupancy. Provided further, manufactured home dealer license plates shall not be issued to a restricted manufactured home park dealer;

15. "Retail implement dealer" means a business engaged primarily in the sale of farm tractors as defined in Section 1-118 of this title or implements of husbandry as defined in Section 1-125 of this title or a combination thereof;

16. "Sale" or "sell" means the act of selling, brokering, exchanging, exchanging of an interest in, or renting with the option ~~of purchasing to purchase or own in any form at any time after the beginning of the lease term,~~ a new or used manufactured home for commission, profit, ~~or~~ gain of money or other thing of value;

17. "Used motor vehicle" means any motor vehicle, as that term is defined in the Oklahoma Vehicle License and Registration Act, but not including any all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use which are sold by a retail implement dealer, which has been sold, bargained, exchanged, given away or the title thereto transferred from the person who first took title from the manufacturer, importer, or dealer or agent of the manufacturer or importer, or so used as to have become what is commonly known as a "secondhand motor vehicle". In the event of transfer, on the statement of origin, from the original franchised dealer to any other dealer or individual other than a franchised dealer of the same make of vehicle, the vehicle shall be considered a used motor vehicle and must be titled in the new owner's name;

18. "Used motor vehicle auction" means any business other than salvage pools which regularly engages in the sale or trade, or negotiates the sale or trade, of used motor vehicles by auction, whether by open or closed bid or by sale to or purchase by used motor vehicle dealers or individuals;

19. a. "Used motor vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, or offers or attempts to negotiate a sale or exchange of an interest in used motor vehicles, or who is engaged

wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by the person.

b. "Used motor vehicle dealer" shall not include:

- (1) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting pursuant to the judgment or order of any court,
- (2) public officers while performing their official duties,
- (3) employees of persons enumerated in the definition of "used motor vehicle dealer" when engaged in the specific performance of their duties as such employees,
- (4) mortgagees or secured parties as to sales of motor vehicles constituting collateral on a mortgage or security agreement, if the mortgagees or secured parties shall not realize for their own account from such sales any monies in excess of the outstanding balance secured by such mortgage or security agreement, plus the costs of collection,
- (5) any person acting as an auctioneer who has been engaged by a seller to direct, conduct, control, or be responsible for the sale of used motor vehicles as part of an estate auction or liquidation,
- (6) any person, firm, corporation, or other legal entity who sells, or contracts for the sale of, the vehicles of the person, firm, corporation, or other legal entity when such vehicles are sold in liquidation, and any person, firm, corporation, or other legal entity who serves as an agent in such sale. The exclusion provided in this paragraph shall not extend to any person, firm, corporation, or other legal entity whose business is the purchase, sale, or rental with option to

purchase, of motor vehicles, or to a location used for such purposes,

- (7) any person acting as an auctioneer who has been engaged by a seller to direct, conduct, control, or be responsible for the sale of used motor vehicles as part of an auction held at a licensed used motor vehicle dealer location. The exclusion provided in this division shall not extend to a person who auctions five or more used motor vehicles in a nonliquidation sale held at a licensed used motor vehicle dealer location which is not regularly used as a vehicle auction, or
- (8) any retail implement dealer that sells all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use;

20. "Used motor vehicle salesperson" means a person employed by a licensed used motor vehicle dealer to sell, broker, exchange, or negotiate a purchase, sale, or rental with option to purchase, used motor vehicles or an interest in used motor vehicles. The term "used motor vehicle salesperson" shall not include any person who:

- a. uses the person's own funds for such transactions, or
- b. operates independently as a used motor vehicle dealer using a licensed used motor vehicle dealer's license number; and

21. "Wholesale used motor vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, or offers or attempts to negotiate a sale or exchange of interest in used motor vehicles exclusively to used motor vehicle dealers, or who is engaged in the business of selling used motor vehicles exclusively to used motor vehicle dealers, whether or not such motor vehicles are owned by the person.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 583, as last amended by Section 24, Chapter 161, O.S.L. 2020 (47 O.S. Supp. 2020, Section 583), is amended to read as follows:

Section 583. A. 1. It shall be unlawful and constitute a misdemeanor for any person to engage in business as, or serve in the

capacity of, or act as a used motor vehicle dealer, wholesale used motor vehicle dealer, manufactured home dealer, restricted manufactured home park dealer, manufactured home installer, or manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state without first obtaining a license or following other requirements therefor as provided in this section.

2. a. Any person engaging, acting, or serving in the capacity of a used motor vehicle dealer, a manufactured home dealer, restricted manufactured home park dealer, a manufactured home installer, or a manufactured home manufacturer, or having more than one place where any such business, or combination of businesses, is carried on or conducted shall be required to obtain and hold a current license for each such business, in which engaged.

- b. If after a hearing in accordance with the provisions of Section 585 of this title, the Oklahoma Used Motor Vehicle and Parts Commission shall find any person installing a mobile or manufactured home to be in violation of any of the provisions of this act, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. All administrative fines collected pursuant to the provisions of this subparagraph shall be deposited in the fund established in Section 582 of this title. Administrative fines imposed pursuant to this subparagraph may be enforceable in the district courts of this state.

3. Any person, except persons penalized by administrative fine, violating the provisions of this section shall, upon conviction, be punished by a fine not to exceed Five Hundred Dollars (\$500.00). A second or subsequent conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00); provided that each day such unlicensed person violates this section shall constitute a separate offense, and any vehicle involved in a violation of this subsection shall be considered a separate offense.

B. 1. Applications for licenses required to be obtained under the provisions of the Oklahoma Used Motor Vehicle and Parts

Commission shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to the applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in the application, or otherwise, information relating to:

- a. the applicant's financial standing,
- b. the applicant's business integrity,
- c. whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license, or licenses, is applied for,
- d. whether the applicant is able to properly conduct the business for which a license, or licenses, is applied for, and
- e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

2. All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule hereinafter provided. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

3. All bonds and licenses issued under the provisions of this act shall expire on December 31, following the date of issue and shall be nontransferable. All applications for renewal of licenses shall be submitted by November 1 of each year of expiration, and licenses for completed renewals received by November 1 shall be issued by January 10. If applications have not been made for renewal of licenses, such licenses shall expire on December 31 and it shall be illegal for any person to represent himself or herself and act as a dealer thereafter. Tag agents shall be notified not to accept dealers' titles until such time as licenses have been issued. Beginning January 1, 2016, all licenses shall be issued for a period of two (2) years and the appropriate fees shall be assessed. The Commission shall adopt rules necessary to implement the two-year licensing provisions.

C. The schedule of license fees to be charged and received by the Commission for the licenses issued hereunder shall be as follows:

1. For each used motor vehicle dealer's license and each wholesale used motor vehicle dealer's license, Six Hundred Dollars (\$600.00). If a used motor vehicle dealer or a wholesale used motor vehicle dealer has once been licensed by the Commission in the classification for which he or she applies for a renewal of the license, the fee for each subsequent renewal shall be Three Hundred Dollars (\$300.00); provided, if an applicant holds a license to conduct business as an automotive dismantler and parts recycler issued pursuant to Section 591.1 et seq. of this title, the initial fee shall be Two Hundred Dollars (\$200.00) and the renewal fee shall be Two Hundred Dollars (\$200.00). If an applicant is applying simultaneously for a license under this paragraph and a license under paragraph 1 of Section 591.5 of this title, the initial application fee shall be Four Hundred Dollars (\$400.00). For the reinstatement of a used motor vehicle dealer's license after revocation for cancellation or expiration of insurance pursuant to subsection F of this section, the fee shall be Two Hundred Dollars (\$200.00);

2. For a used motor vehicle dealer's license, for each place of business in addition to the principal place of business, Two Hundred Dollars (\$200.00);

3. For each holder who possesses a valid new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, Two Hundred Dollars (\$200.00) shall be the initial fee for a used motor vehicle license and the fee for each subsequent renewal shall be Two Hundred Dollars (\$200.00);

4. a. For each manufactured home dealer's license or a restricted manufactured home park dealer's license, Six Hundred Dollars (\$600.00), and for each place of business in addition to the principal place of business, Four Hundred Dollars (\$400.00), and
- b. For each renewal of a manufactured home dealer's license or a restricted manufactured home park dealer's license, and renewal for each place of business in addition to the principal place of business, Three Hundred Dollars (\$300.00);

5. a. For each manufactured home installer's license, Four Hundred Dollars (\$400.00), and
- b. For each renewal of a manufactured home installer's license, Four Hundred Dollars (\$400.00);
6. a. For each manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state, One Thousand Five Hundred Dollars (\$1,500.00), and
- b. For each renewal of a manufactured home manufacturer's license, One Thousand Five Hundred Dollars (\$1,500.00);

7. Any manufactured home manufacturer who sells a new manufactured home to be shipped to or sited in the State of Oklahoma shall pay an installation inspection fee of Seventy-five Dollars (\$75.00) for each new single-wide manufactured home and One Hundred Twenty-five Dollars (\$125.00) for each new multi-floor manufactured home; and

8. A used manufactured home inspection fee of Seventy-five Dollars (\$75.00) shall be paid by the installer at or before the time of installation of any used manufactured home sited and installed in the State of Oklahoma.

D. 1. The license issued to each used motor vehicle dealer, each wholesale used motor vehicle dealer, each restricted manufactured home park dealer and each manufactured home dealer shall specify the location of the place of business. If the business location is changed, the Oklahoma Used Motor Vehicle and Parts Commission shall be notified immediately of the change and the Commission may endorse the change of location on the license. The fee for a change of location shall be One Hundred Dollars (\$100.00), and the fee for a change of name, Twenty-five Dollars (\$25.00). The license of each licensee shall be posted in a conspicuous place in the place or places of business of the licensee.

2. The license issued to each manufactured home installer, and each manufactured home manufacturer shall specify the location of the place of business. If the business location is changed, the Oklahoma Used Motor Vehicle and Parts Commission shall be notified immediately of the change and the Commission may endorse the change

of location on the license without charge. The license of each licensee shall be posted in a conspicuous place in the place or places of business of the licensee.

3. Every manufactured home installer shall have the license available for inspection at the primary place of business of the licensee. This license shall be valid for the licensee and all of the employees of the licensee. Any person who is not an employee of the licensee must obtain a separate manufactured home installer license regardless of whether such person is acting in the capacity of a contractor or subcontractor.

- E. 1. a. Each applicant for a used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Twenty-five Thousand Dollars (\$25,000.00). Each new applicant for a used motor vehicle dealer's license for the purpose of conducting a used motor vehicle auction shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). An applicant who intends to conduct a used motor vehicle auction who provides proof that the applicant has check and title insurance in an amount not less than Fifty Thousand Dollars (\$50,000.00) shall only be required to have a bond in the amount of Twenty-five Thousand Dollars (\$25,000.00).
- b. Each new applicant for a used motor vehicle dealer license for the purpose of conducting a used motor vehicle business which will consist primarily of non-auction consignment sales which are projected to equal Five Hundred Thousand Dollars (\$500,000.00) or more in gross annual sales shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). The Commission shall prescribe by rule the method of operation of the non-auction consignment dealer in order to properly protect the interests of all parties to the transaction and to provide sanctions against dealers who fail to comply with the rules.
- c. Each applicant for a wholesale used motor vehicle dealer's license shall procure and file with the

Commission a good and sufficient bond in the amount of Twenty-five Thousand Dollars (\$25,000.00).

- d. Any used motor vehicle dealer who, for the purpose of being a rebuilder, applies for a rebuilder certificate, as provided in Section 591.5 of this title, whether as a new application or renewal, shall procure and file with the Commission a good and sufficient bond in the amount of Fifteen Thousand Dollars (\$15,000.00), in addition to any other bonds required.
- e. Each applicant for a manufactured home dealer's license or a restricted manufactured home park dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00).
- f. Each manufactured home manufacturing facility selling directly to a licensed manufactured home dealer or restricted manufactured home park dealer in this state shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00). In addition to all other conditions and requirements set forth herein, the bond shall require the availability of prompt and full warranty service by the manufacturer to comply with all warranties expressed or implied in connection with each manufactured home which is manufactured for resale or use in this state. A manufacturer may not sell, exchange, or lease-purchase with an option to own in any form a manufactured home to a person in this state directly or indirectly through a distributor or third party who is not a licensed manufactured home dealer or a restricted manufactured home park dealer.
- g. The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this act in the conduct of the business for which the applicant is licensed. One of the purposes of the bond is to provide reimbursement for any loss or damage suffered by any person by reason of issuance of a certificate

of title by a used motor vehicle dealer, a wholesale used motor vehicle dealer, a restricted manufactured home park dealer or a manufactured home dealer.

2. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

F. Any used motor vehicle dealer or wholesale used motor vehicle dealer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00) of single liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state.

G. Any manufactured home dealer or restricted manufactured home park dealer is required to furnish and keep in force a minimum of One Hundred Thousand Dollars (\$100,000.00) of garage liability or general liability with products and completed operations insurance coverage.

H. Any manufactured home installer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00) of general liability with products and completed operations insurance coverage.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 1110, as last amended by Section 1 of Enrolled House Bill No. 2056 of the 1st Session of the 58th Oklahoma Legislature, is amended to read as follows:

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

containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Tax Commission or to a motor license agent. As used in this section, the term "dealer" shall be defined as provided in Section 1-112 of this title and the term "security interest" shall be defined as provided in paragraph (35) of Section 1-201 of Title 12A of the Oklahoma Statutes. When a vehicle title is presented to a motor license agent for transferring or registering and the documents reflect a lienholder, the motor license agent shall perfect the lien pursuant to subsection G of Section 1105 of this title. For the purposes of this section, the term "vehicle" shall not include special mobilized machinery, machinery used in highway construction or road material construction and rubber-tired road construction vehicles including rubber-tired cranes. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in vehicles as to which a certificate of title may be properly issued by the Tax Commission, except as to vehicles held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in vehicles as to which a certificate of title may be properly issued by the Tax Commission.

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

3. a. For each security interest recorded on a certificate of title, or manufacturer's certificate of origin, such person shall pay a fee of Ten Dollars (\$10.00), which shall be in addition to other fees provided for in the Oklahoma Vehicle License and Registration Act. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and manufacturer's certificate of origin, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a conspicuous place, on each of these instruments. Of the ten-dollar fee, the motor license agent shall retain Two Dollars (\$2.00) for recording the security interest lien.
- b. It shall be unlawful for any person to solicit, accept or receive any gratuity or compensation for acting as a messenger and for acting as the agent or representative of another person in applying for the recording of a security interest or for the registration of a motor vehicle and obtaining the license plates or for the issuance of a certificate of title therefor unless the Tax Commission has appointed and approved the person to perform such acts; and before acting as a messenger, any such person shall furnish to the Tax Commission a surety bond in such amount as the Tax Commission shall determine appropriate.

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

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

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

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

8. When there is an active lien from a commercial lender in place on a vehicle, motor license agents shall be prohibited from transferring the certificate of title on that vehicle until the lien is satisfied.

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

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

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

- b. by submitting to the Tax Commission or the motor license agent an affidavit, supported by such documentation as the Tax Commission may require, by the owner on a form prescribed by the Tax Commission stating that the security interest has been satisfied and stating the reasons why a release cannot be obtained, an application for a new certificate of title and the proper fees.

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

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

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

D. 1. Any security interest in a vehicle properly perfected prior to July 1, 1979, may be continued as to its effectiveness or duration as provided by Sections 1-9-510 and 1-9-515 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date the security interest was originally perfected under the prior law.

2. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender the certificate

of title to the secured party and shall do such other acts as may be required to perfect the security interest under this section.

E. If a manufactured home is permanently affixed to real estate, ~~the original document~~ an Oklahoma certificate of title may be surrendered to the Tax Commission or a motor license agent for cancellation. When the document of title is surrendered, the owner shall provide the legal description or the appropriate tract or parcel number of the real estate and other information as may be required on a form provided by the Tax Commission. The Tax Commission may not cancel a document of title if a lien has been registered or recorded. The Tax Commission or motor license agent shall notify the owner and any lienholder that the title has been surrendered to the Tax Commission and that the Tax Commission may not cancel the title until the lien is released. Such notification shall include a description of the lien and such notification to the owner shall be accompanied by the return of title surrendered. Permanent attachment to real estate does not affect the validity of a lien recorded or registered with the Tax Commission before the document of title is canceled pursuant to this section. The rights of a prior lienholder pursuant to a security agreement or the provisions of a credit transaction and the rights of the state pursuant to a tax lien are preserved. The Tax Commission or motor license agent shall forward the information to the county assessor of the county where the real estate is located and indicate whether the original document of title has been canceled. A fee of Five Dollars (\$5.00) shall accompany the application for cancellation of title. When the fee is paid by a person making an application directly with the Tax Commission, the fee shall be deposited in the Oklahoma Tax Commission Revolving Fund. A fee paid to a motor license agent shall be retained by the agent. The owner of a manufactured home upon which the document of title has been properly surrendered, may apply to the Tax Commission for issuance of a new original certificate of title upon submission of:

1. An attestation from the homeowner indicating ownership of the manufactured home and the nonexistence of any security interest or lien of record in the manufactured home; and

2. A title opinion by a licensed attorney, determining that the owner of the manufactured home has marketable title to the real property upon which the manufactured home is located and that no documents filed of record in the county clerk's office concerning the real property contain a mortgage, recorded financial statement, judgment, or lien of record. Persons or entities to whom the title

opinion is addressed may rely on the title opinion. A security interest in a manufactured home perfected pursuant to this section shall have priority over a conflicting interest of a mortgagee or other lien encumbrancer, or the owner of the real property upon which the manufactured home became affixed or otherwise permanently attached. The holder of the security interest in the manufactured home, upon default, may remove the manufactured home from such real property. The holder of the security interest in the manufactured home shall reimburse the owner of the real property who is not the debtor and who has not otherwise agreed to access the real property for the cost of repair of any physical injury to the real property, but shall not be liable for any diminution in value to the real property caused by the removal of the manufactured home, trespass, or any other damages caused by the removal. The debtor shall notify the holder of the security interest in the manufactured home of the street address, if any, and the legal description of the real property upon which the manufactured home is affixed or otherwise permanently attached and shall sign such other documents, including any appropriate mortgage, as may reasonably be requested by the holder of such security interest.

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

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

SECTION 4. AMENDATORY 68 O.S. 2011, Section 2812, is amended to read as follows:

Section 2812. A. Subject to the provisions of subsection B of Section 2813 of this title, a manufactured home which is located on land owned by the owner of the manufactured home shall be listed and assessed in the county in which it is located for ad valorem taxation as ~~is~~ real property pursuant to the provisions of the Ad Valorem Tax Code. The person owning and residing in such manufactured home may apply for homestead exemption. The county assessor shall approve the application of such person if all requirements of law for such exemption have been met.

B. A manufactured home which is located on land not owned by the owner of the manufactured home shall be listed and assessed in the county in which it is located for ad valorem taxation as ~~is~~ personal property pursuant to the provisions of the Ad Valorem Tax Code.

C. Each year that a manufactured home is subject to ad valorem taxes as provided by law, the county assessor and the county treasurer shall transmit the information relating to ad valorem tax payment to the Oklahoma Tax Commission, which shall identify the manufactured home and record the payment in the computer data system provided for by Section 1113 of Title 47 of the Oklahoma Statutes. The county assessor and treasurer of each county shall provide such information as may be required in order to implement the provisions of this section.

SECTION 5. This act shall become effective November 1, 2021.

Passed the House of Representatives the 28th day of April, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 14th day of April, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____