

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 427

By: Coleman

AS INTRODUCED

An Act relating to certificates of title; amending 47 O.S. 2021, Section 1110, as last amended by Section 1, Chapter 204, O.S.L. 2022 (47 O.S. Supp. 2022, Section 1110), which relates to the perfection of security interest; providing exception to prohibition on transfer of certain title; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 1110, as last amended by Section 1, Chapter 204, O.S.L. 2022 (47 O.S. Supp. 2022, Section 1110), 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

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 lienholder, the motor license agent shall perfect the lien
14 pursuant to subsection G of Section 1105 of this title. For the
15 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 days as provided hereafter with certificate of title or the
12 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) days
18 after the date of the lien entry form, perfection of the security
19 interest shall begin from the date of the execution of the lien
20 entry form, but otherwise, perfection of the security interest shall
21 begin from the date of the delivery to the Tax Commission or to a
22 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,
15 accept, or receive any gratuity or compensation for
16 acting as 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 8. When there is an active lien from a commercial lender in
5 place on a vehicle, motor license agents shall be prohibited from
6 transferring the certificate of title on that vehicle until the lien
7 is satisfied, except when the title is transferred:

- 8 a. to a person whose name is included on the loan for
9 which the lien is placed pursuant to an agreement by
10 the lender and any party to the title,
11 b. to a trust created by a person whose name is included
12 on the loan for which the lien is placed, ~~or~~
13 c. from a person who has died, upon the submission of a
14 death certificate, or
15 d. at the discretion of the court based upon debts owed
16 to a towing or wrecker service.

17 The provisions of this paragraph shall not be construed to release
18 any lien or debt based solely upon a transfer of certificate of
19 title.

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

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

- 18 a. a release signed by the secured party, an application
19 for new certificate of title and the proper fees, or
- 20 b. by submitting to the Tax Commission or the motor
21 license agent an affidavit, supported by such
22 documentation as the Tax Commission may require, by
23 the owner on a form prescribed by the Tax Commission
24 stating that the security interest has been satisfied

1 and stating the reasons why a release cannot be
2 obtained, an application for a new certificate of
3 title and the proper fees.

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

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

16 C. The Tax Commission shall file and index certificates of
17 title so that at all times it will be possible to trace a
18 certificate of title to the vehicle designated therein, identify the
19 lien entry form, and the names and addresses of secured parties, or
20 their assignees, so that all or any part of such information may be
21 made readily available to those who make legitimate inquiry of the
22 Tax Commission as to the existence or nonexistence of security
23 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 1-9-510 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, an Oklahoma certificate of title may be surrendered to the
17 Tax 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 canceled pursuant
7 to this section. The rights of a prior lienholder pursuant to a
8 security agreement or the provisions of a credit transaction and the
9 rights of the state pursuant to a tax lien are preserved. The Tax
10 Commission or motor license agent shall forward the information to
11 the county assessor of the county where the real estate is located
12 and indicate whether the original document of title has been
13 canceled. A fee of Five Dollars (\$5.00) shall accompany the
14 application for cancellation of title. When the fee is paid by a
15 person making an application directly with the Tax Commission, the
16 fee shall be deposited in the Oklahoma Tax Commission Revolving
17 Fund. A fee paid to a motor license agent shall be retained by the
18 agent. The owner of a manufactured home upon which the document of
19 title has been properly surrendered, may apply to the Tax Commission
20 for issuance of a new original certificate of title upon submission
21 of:

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

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

1 any appropriate mortgage, as may reasonably be requested by the
2 holder of such security 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, 2023.

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