

SECOND REGULAR SESSION

SENATE BILL NO. 763

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time February 7, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5561S.031

AN ACT

To repeal section 301.640, RSMo, and to enact in lieu thereof one new section relating to the release of a lien or encumbrance from a certificate of ownership, with penalty provisions in existing language.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 301.640, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 301.640, to read as follows:

301.640. 1. Within five business days after the satisfaction of any lien or
2 encumbrance of a motor vehicle or trailer, the lienholder shall release the lien or
3 encumbrance on the certificate or a separate document, and mail or deliver the
4 certificate or a separate document to the owner or any person who delivers to the
5 lienholder an authorization from the owner to receive the certificate or such
6 documentation. The release on the certificate or separate document shall be
7 notarized. Each perfected subordinate lienholder, if any, shall release such lien
8 or encumbrance as provided in this section for the first lienholder. The owner
9 may cause the certificate to be mailed or delivered to the director of revenue, who
10 shall issue a new certificate of ownership upon application and payment of the
11 required fee. A lien or encumbrance shall be satisfied for the purposes of this
12 section when a lienholder receives payment in full in the form of certified funds,
13 as defined in section 381.410, or when the lienholder receives payment in full
14 electronically or by way of electronic funds transfer, whichever first occurs. **No**
15 **fee may be charged to an owner or agent for the owner, for the release**
16 **of any lien or encumbrance. However, the lienholder may assess a fee**
17 **not to exceed twenty-five dollars for providing a duplicate release,**
18 **unless the lienholder failed to comply with its requirements under**
19 **subsection 2 of this section. If the owner, or agent for the owner,**

20 requests an expedited release of any lien under this subsection, the
21 lienholder may assess a fee not to exceed twenty-five dollars plus actual
22 overnight carrier charges, if any, provided the fee shall not be charged
23 or it shall be refunded, if charged, if the expedited release is not
24 shipped or sent on the date promised by the lienholder, which shall not
25 be later than one business day after receipt of the request. However,
26 if a duplicate release is requested to be expedited, then the lienholder
27 may not charge more than a total of twenty-five dollars for providing
28 an expedited duplicate release, plus the actual overnight carrier
29 charges, if any.

30 2. If the electronic certificate of ownership is in the possession of the
31 director of revenue, the lienholder shall notify the director within five business
32 days after any release of a lien and provide the director with the most current
33 address of the owner or any person who delivers to the lienholder an
34 authorization from the owner to receive the certificate or such
35 documentation. The director shall note such release on the electronic certificate
36 and if no other lien exists the director shall mail or deliver the certificate free of
37 any lien to the owner or any person who has delivered to the lienholder an
38 authorization from the owner to receive the certificate or such documentation
39 from the director.

40 3. If the purchase price of a motor vehicle or trailer did not exceed six
41 thousand dollars at the time of purchase, a lien or encumbrance which was not
42 perfected by a motor vehicle financing corporation whose net worth exceeds one
43 hundred million dollars, or a depository institution, shall be considered satisfied
44 within six years from the date the lien or encumbrance was originally perfected
45 unless a new lien or encumbrance has been perfected as provided in section
46 301.600. This subsection does not apply to motor vehicles or trailers for which
47 the certificate of ownership has recorded in the second lienholder portion the
48 words "subject to future advances".

49 4. Any lienholder who fails to timely comply with subsection 1 or 2 of this
50 section shall pay to the person or persons satisfying the lien or encumbrance
51 liquidated damages up to a maximum of two thousand five hundred dollars for
52 each lien. Liquidated damages shall be five hundred dollars if the lienholder does
53 not comply within five business days after satisfaction of the lien or
54 encumbrance. Liquidated damages shall be one thousand dollars if the lienholder
55 does not comply within ten business days after satisfaction of the lien or

56 encumbrance. Liquidated damages shall be two thousand dollars if the lienholder
57 does not comply within fifteen business days after satisfaction of the lien or
58 encumbrance. Liquidated damages shall be two thousand five hundred dollars
59 if the lienholder does not comply within twenty business days after satisfaction
60 of the lien or encumbrance. If delivery of the certificate or other lien release is
61 made by mail, the delivery date is the date of the postmark for purposes of this
62 subsection. In computing any period of time prescribed or allowed by this section,
63 the day of the act or event after which the designated period of time begins to run
64 is not to be counted. However, the last day of the period so computed is to be
65 included, unless it is a Saturday, Sunday, or a legal holiday, in which event the
66 period runs until the end of the next day that is not a Saturday, Sunday, or legal
67 holiday.

68 5. Any person who knowingly and intentionally sends in a separate
69 document releasing a lien of another without authority to do so shall be guilty of
70 a class C felony.

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Bill

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