

1 ENGROSSED HOUSE
2 BILL NO. 3618

By: Harris and West (Tammy) of
the House

3 and

4 Rader of the Senate
5
6

7 An Act relating to motor vehicles; amending 47 O.S.
8 2021, Section 1110, as amended by Section 1, Chapter
9 204, O.S.L. 2022 (47 O.S. Supp. 2023, Section 1110),
10 which relates to perfection of security interest;
11 adding certain exception for certificate of title
12 transfers; requiring certain attestation; requiring
13 certain notice be given; requiring develop of certain
14 affidavit; authorizing lienholder to exercise certain
15 available; prohibiting certain additional title
16 transfers until lien is satisfied; limiting title
17 transfers to certain business entities; and providing
18 an effective date.

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

16 SECTION 1. AMENDATORY 47 O.S. 2021, Section 1110, as
17 amended by Section 1, Chapter 204, O.S.L. 2022 (47 O.S. Supp. 2023,
18 Section 1110), is amended to read as follows:

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

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

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

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

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

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

1 before acting as a messenger, any such person shall
2 furnish to the Tax Commission a surety bond in such
3 amount as the Tax Commission shall determine
4 appropriate.

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

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

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

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,
- 15 d. upon attestation by the managing member indicating
16 ownership, to a business entity from a person who owns
17 at least fifty percent (50%) of the business entity
18 receiving title. Service Oklahoma shall provide
19 notification of the transaction to the lienholder
20 following the transfer of title and shall develop an
21 appropriate affidavit necessary to effectuate a
22 transfer of title. A title transfer initiated
23 pursuant to this subparagraph, shall not preclude the
24 lienholder from exercising all remedies available to

1 it in accordance with an agreement between the
2 lienholder and the individual transferring title, up
3 to and including repossession of the vehicle and civil
4 action against the borrower. Further, until the
5 original lien is satisfied, the receiving business
6 entity shall be prohibited from transferring title to
7 another entity or person. Types of business entities
8 that may receive a transfer of title pursuant to this
9 subparagraph shall be limited to:

10 (1) sole proprietorships,

11 (2) general partnerships,

12 (3) limited partnerships,

13 (4) limited liability companies,

14 (5) professional limited partnerships, and

15 (6) professional limited liability companies, or

16 e. at the discretion of a court of competent jurisdiction
17 based upon debts owed to a towing or wrecker service,
18 but only after a final order in a civil action in
19 which all lienholders and other interested parties
20 have been joined and after proving full compliance
21 with the applicable provisions of Section 90 et seq.
22 of Title 42 of the Oklahoma Statutes. Full compliance
23 with the applicable provisions of Section 90 et seq.
24 of Title 42 of the Oklahoma Statutes shall include,

1 but not limited to, the sending of all required
2 notices to existing lienholders.

3 The provisions of this paragraph shall not be construed to release
4 any lien or debt based solely upon a transfer of certificate of
5 title.

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

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

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

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

24

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

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

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

22 2. Upon request of the secured party, the debtor, or any other
23 holder of the certificate of title shall surrender the certificate
24

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

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

1 canceled. A fee of Five Dollars (\$5.00) shall accompany the
2 application for cancellation of title. When the fee is paid by a
3 person making an application directly with the Tax Commission, the
4 fee shall be deposited in the Oklahoma Tax Commission Revolving
5 Fund. A fee paid to a motor license agent shall be retained by the
6 agent. The owner of a manufactured home upon which the document of
7 title has been properly surrendered, may apply to the Tax Commission
8 for issuance of a new original certificate of title upon submission
9 of:

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

13 2. A title opinion by a licensed attorney, determining that the
14 owner of the manufactured home has marketable title to the real
15 property upon which the manufactured home is located and that no
16 documents filed of record in the county clerk's office concerning
17 the real property contain a mortgage, recorded financial statement,
18 judgment, or lien of record. Persons or entities to whom the title
19 opinion is addressed may rely on the title opinion. A security
20 interest in a manufactured home perfected pursuant to this section
21 shall have priority over a conflicting interest of a mortgagee or
22 other lien encumbrancer, or the owner of the real property upon
23 which the manufactured home became affixed or otherwise permanently
24 attached. The holder of the security interest in the manufactured

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

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

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

