

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 740
FINAL READING

Introduced by Baker, 44

Read first time January 22, 2003

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend section 60-110,
2 Revised Statutes Supplement, 2002; to change provisions
3 relating to security interests; and to repeal the
4 original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-110, Revised Statutes Supplement,
2 2002, is amended to read:

3 60-110. (1) The provisions of article 9, Uniform
4 Commercial Code, shall never be construed to apply to or to permit
5 or require the deposit, filing, or other record whatsoever of a
6 security agreement, conveyance intended to operate as a mortgage,
7 trust receipt, conditional sales contract, or similar instrument or
8 any copy of the same covering a motor vehicle. Any mortgage,
9 conveyance intended to operate as a security agreement as provided
10 by article 9, Uniform Commercial Code, trust receipt, conditional
11 sales contract, or other similar instrument covering a motor
12 vehicle, if such instrument is accompanied by delivery of such
13 manufacturer's or importer's certificate and followed by actual and
14 continued possession of the same by the holder of such instrument
15 or, in the case of a certificate of title, if a notation of the
16 same has been made by the county clerk or the Department of Motor
17 Vehicles on the face thereof, shall be valid as against the
18 creditors of the debtor, whether armed with process or not, and
19 subsequent purchasers, secured parties, and other lienholders or
20 claimants but otherwise shall not be valid against them, except
21 that during any period in which a motor vehicle is inventory, as
22 defined in section 9-102, Uniform Commercial Code, held for sale by
23 a person or corporation that is licensed as provided in Chapter 60,
24 article 14, and is in the business of selling motor vehicles, the
25 filing provisions of article 9, Uniform Commercial Code, as applied
26 to inventory, shall apply to a security interest in such motor
27 vehicle created by such person or corporation as debtor without the
28 notation of lien on the instrument of title. A buyer at retail

1 from a licensed dealer of any vehicle which is subject to Chapter
2 60, article 14, in the ordinary course of business shall take such
3 vehicle free of any security interest.

4 (2) Subject to ~~the foregoing~~ subsection (1) of this
5 section, all liens, security agreements, and encumbrances noted
6 upon a certificate of title shall take priority according to the
7 order of time in which the same are noted thereon by the county
8 clerk or the Department of Motor Vehicles. Exposure for sale of
9 any motor vehicle by the owner thereof with the knowledge or with
10 the knowledge and consent of the holder of any lien, security
11 agreement, or encumbrance on such motor vehicle shall not render
12 the same void or ineffective as against the creditors of such owner
13 or holder of subsequent liens, security agreements, or encumbrances
14 upon such motor vehicle.

15 (3) The holder of a security agreement, trust receipt,
16 conditional sales contract, or similar instrument, upon
17 presentation of such instrument to the department, if the
18 certificate of title was issued by the department, or to any county
19 clerk together with the certificate of title and the fee prescribed
20 by section 60-115, may have a notation of such lien made on the
21 face of such certificate of title. The county clerk or the
22 department shall enter the notation and the date thereof over the
23 signature of such officer or deputy and the seal of office. If
24 noted by a county clerk, he or she shall on that day notify the
25 department which shall note the lien on its records. The county
26 clerk or the department shall also indicate by appropriate notation
27 and on such instrument itself the fact that such lien has been
28 noted on the certificate of title.

1 (4) A transaction does not create a sale or a security
2 interest in a motor vehicle merely because it provides that the
3 rental price is permitted or required to be adjusted under the
4 agreement either upward or downward by reference to the amount
5 realized upon sale or other disposition of the motor vehicle.

6 (5) The county clerk or the department, upon receipt of a
7 lien instrument duly signed by the owner in the manner prescribed
8 by law governing such lien instruments together with the fee
9 prescribed for notation of lien, shall notify the first lienholder
10 to deliver to the county clerk or the department, within fifteen
11 days from the date of notice, the certificate of title to permit
12 notation of such junior lien and, after such notation of lien, the
13 county clerk or the department shall deliver the certificate of
14 title to the first lienholder. The holder of a certificate of
15 title who refuses to deliver a certificate of title to the county
16 clerk or the department for the purpose of showing a junior lien on
17 such certificate of title within fifteen days from the date when
18 notified to do so shall be liable for damages to such junior
19 lienholder for the amount of damages such junior lienholder
20 suffered by reason of the holder of the certificate of title
21 refusing to permit the showing of such lien on the certificate of
22 title.

23 (6) When such lien is discharged, the holder shall,
24 within fifteen days after payment is received, note a cancellation
25 of the lien on the face of the certificate of title over his, her,
26 or its signature and deliver the certificate of title to the county
27 clerk or the department which shall note the cancellation of the
28 lien on the face of the certificate of title and on the records of

1 such office. If delivered to a county clerk, he or she shall on
2 that day notify the department which shall note the cancellation on
3 its records. The county clerk or the department shall then return
4 the certificate of title to the owner or as otherwise directed by
5 the owner. The cancellation of lien shall be noted on the
6 certificate of title without charge.

7 (7) If a county board consolidates services under the
8 office of a designated county official other than the county clerk
9 pursuant to section 23-186, the designated county official shall
10 make notations of all liens and cancellation of liens on motor
11 vehicles and collect fees pursuant to section 60-115.

12 Sec. 2. Original section 60-110, Revised Statutes
13 Supplement, 2002, is repealed.