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E & R AMENDMENTS TO LB 740

1           1.     Strike original section 1 and insert the following  
2 new section:

3           "Section 1. Section 60-110, Revised Statutes Supplement,  
4 2002, is amended to read:

5           60-110.    (1) The provisions of article 9, Uniform  
6 Commercial Code, shall never be construed to apply to or to permit  
7 or require the deposit, filing, or other record whatsoever of a  
8 security agreement, conveyance intended to operate as a mortgage,  
9 trust receipt, conditional sales contract, or similar instrument or  
10 any copy of the same covering a motor vehicle. Any mortgage,  
11 conveyance intended to operate as a security agreement as provided  
12 by article 9, Uniform Commercial Code, trust receipt, conditional  
13 sales contract, or other similar instrument covering a motor  
14 vehicle, if such instrument is accompanied by delivery of such  
15 manufacturer's or importer's certificate and followed by actual and  
16 continued possession of the same by the holder of such instrument  
17 or, in the case of a certificate of title, if a notation of the  
18 same has been made by the county clerk or the Department of Motor  
19 Vehicles on the face thereof, shall be valid as against the  
20 creditors of the debtor, whether armed with process or not, and  
21 subsequent purchasers, secured parties, and other lienholders or  
22 claimants but otherwise shall not be valid against them, except  
23 that during any period in which a motor vehicle is inventory, as  
24 defined in section 9-102, Uniform Commercial Code, held for sale by

1 a person or corporation that is licensed as provided in Chapter 60,  
2 article 14, and is in the business of selling motor vehicles, the  
3 filing provisions of article 9, Uniform Commercial Code, as applied  
4 to inventory, shall apply to a security interest in such motor  
5 vehicle created by such person or corporation as debtor without the  
6 notation of lien on the instrument of title. A buyer at retail  
7 from a licensed dealer of any vehicle which is subject to Chapter  
8 60, article 14, in the ordinary course of business shall take such  
9 vehicle free of any security interest.

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

21 (3) The holder of a security agreement, trust receipt,  
22 conditional sales contract, or similar instrument, upon  
23 presentation of such instrument to the department, if the  
24 certificate of title was issued by the department, or to any county  
25 clerk together with the certificate of title and the fee prescribed  
26 by section 60-115, may have a notation of such lien made on the  
27 face of such certificate of title. The county clerk or the

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1 department shall enter the notation and the date thereof over the  
2 signature of such officer or deputy and the seal of office. If  
3 noted by a county clerk, he or she shall on that day notify the  
4 department which shall note the lien on its records. The county  
5 clerk or the department shall also indicate by appropriate notation  
6 and on such instrument itself the fact that such lien has been  
7 noted on the certificate of title.

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

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

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1 refusing to permit the showing of such lien on the certificate of  
2 title.

3           (6) When such lien is discharged, the holder shall,  
4 within fifteen days after payment is received, note a cancellation  
5 of the lien on the face of the certificate of title over his, her,  
6 or its signature and deliver the certificate of title to the county  
7 clerk or the department which shall note the cancellation of the  
8 lien on the face of the certificate of title and on the records of  
9 such office. If delivered to a county clerk, he or she shall on  
10 that day notify the department which shall note the cancellation on  
11 its records. The county clerk or the department shall then return  
12 the certificate of title to the owner or as otherwise directed by  
13 the owner. The cancellation of lien shall be noted on the  
14 certificate of title without charge.

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