

AMENDMENTS TO LB 162

Introduced by Fischer, 43.

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 37-1201, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 37-1201 Sections 37-1201 to 37-12,110 and section 6 of
6 this act shall be known and may be cited as the State Boat Act.

7 It is the policy of this state to promote safety for persons and
8 property in and connected with the use, operation, and equipment of
9 vessels and to promote uniformity of laws relating thereto.

10 Sec. 2. Section 37-1211, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 37-1211 (1) Except as provided in subsections (2) and (3)
13 of this section and sections 37-1249 and 37-1250, every motorboat
14 on the waters of this state shall be numbered and no person shall
15 operate or give permission for the operation of any vessel on such
16 waters unless the vessel is numbered in accordance with the State
17 Boat Act or in accordance with the laws of another state if the
18 commission has by regulation approved the numbering system of such
19 state and unless the certificate of number awarded to such vessel
20 is in full force and effect and the identifying number set forth in
21 the certificate of number is displayed and legible on each side of
22 the forward half of the vessel.

23 (2) The owner of each motorboat may operate or give

1 permission for the operation of such vessel for thirty days from
2 the date the vessel was acquired in anticipation of the vessel
3 being numbered. A duly executed bill of sale, certificate of title,
4 or other satisfactory evidence of the right of possession of the
5 vessel as prescribed by the Department of Motor Vehicles must be
6 available for inspection at all times from the operator of the
7 vessel.

8 (3) The owner or his or her invitee who operates a
9 personal watercraft on any body of water (a) which is entirely upon
10 privately owned land owned by only one person or one family and,
11 if leased, leased by only one person or one family, (b) which does
12 not connect by any permanent or intermittent inflow or outflow with
13 other water outside such land, and (c) which is not operated on a
14 commercial basis for profit may operate any personal watercraft on
15 such body of water without complying with subsection (1) of this
16 section.

17 Sec. 3. Section 37-1277, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 37-1277 (1) Except as provided in subsections (2) and (3)
20 of this section, no person acquiring a motorboat from the owner
21 thereof, whether the owner is a manufacturer, importer, dealer,
22 or otherwise, shall acquire any right, title, claim, or interest
23 in or to such motorboat until he or she has physical possession
24 of the motorboat and a certificate of title or a manufacturer's
25 or importer's certificate with assignments on the certificate to
26 show title in the purchaser or an instrument in writing required
27 by section 37-1281. No waiver or estoppel shall operate in favor

1 of such person against a person having physical possession of
2 the motorboat and the certificate of title, the manufacturer's or
3 importer's certificate, or an instrument in writing required by
4 section 37-1281. No court in any case at law or in equity shall
5 recognize the right, title, claim, or interest of any person in or
6 to any motorboat sold, disposed of, mortgaged, or encumbered unless
7 there is compliance with this section.

8 (2) A motorboat manufactured before November 1, 1972, is
9 exempt from the requirement to have a certificate of title. If a
10 person acquiring a motorboat which is exempt from the requirement
11 to have a certificate of title desires to acquire a certificate of
12 title for the motorboat, the person may apply for a certificate of
13 title pursuant to section 37-1278.

14 (3) A motorboat owned by the United States, the State of
15 Nebraska, or an agency or political subdivision of either is exempt
16 from the requirement to have a certificate of title. A person other
17 than an agency or political subdivision acquiring such a motorboat
18 which is not covered under subsection (2) of this section shall
19 apply for a certificate of title pursuant to section 37-1278. The
20 person shall show proof of purchase from a governmental agency or
21 political subdivision to obtain a certificate of title.

22 (4) Beginning on the implementation date of the
23 electronic title and lien system designated by the Director
24 of Motor Vehicles pursuant to section 37-1282, an electronic
25 certificate of title record shall be evidence of an owner's right,
26 title, claim, or interest in a motorboat.

27 Sec. 4. Section 37-1279, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 37-1279 (1) The county clerk or designated county
3 official shall issue the certificate of title. ~~One copy shall be~~
4 ~~retained by the county clerk or designated county official in his~~
5 ~~or her office, and the other copy shall be transmitted on the day~~
6 ~~of issuance to the Department of Motor Vehicles.~~ The county clerk
7 or designated county official shall sign and affix his or her seal
8 to the original certificate of title and deliver the certificate
9 to the applicant if there are no liens on the motorboat. If there
10 are one or more liens on the motorboat, the certificate of title
11 shall be handled as provided in section 37-1282. ~~or deliver or mail~~
12 ~~the certificate to the holder of the first lien on the day of~~
13 ~~issuance if there are liens on the motorboat.~~ The county clerk or
14 designated county official shall keep on hand a sufficient supply
15 of blank forms which shall be furnished and distributed without
16 charge to manufacturers, dealers, or other persons residing within
17 the county, except that certificates of title shall only be issued
18 by the county clerk, designated county official, or the department.
19 Each county shall issue and file certificates of title using the
20 vehicle titling and registration computer system. ~~The department~~
21 ~~shall use a portion of the fees appropriated from boat titling and~~
22 ~~credited to the Department of Motor Vehicles Cash Fund to pay for~~
23 ~~the costs of the boat titling system. The costs shall be limited~~
24 ~~to printers as deemed necessary by the department to support the~~
25 ~~issuance of boat titles by the counties.~~

26 (2) Each county clerk or designated county official of
27 the various counties shall provide his or her seal without charge

1 to the applicant on any certificate of title, application for
2 certificate of title, duplicate copy, assignment or reassignment,
3 power of attorney, statement, or affidavit pertaining to the
4 issuance of a certificate of title. The department shall prescribe
5 a uniform method of numbering certificates of title.

6 (3) The county clerk or designated county official
7 shall (a) file all certificates of title according to rules
8 and regulations of the department, (b) maintain in the office
9 indices for such certificates of title, (c) be authorized to
10 destroy all previous records five years after a subsequent transfer
11 has been made on a motorboat, and (d) be authorized to destroy
12 all certificates of title and all supporting records and documents
13 which have been on file for a period of five years or more from
14 the date of filing the certificate or a notation of lien, whichever
15 occurs later. ~~Any person holding a certificate of title to a~~
16 ~~motorboat may refile the same with the county clerk or designated~~
17 ~~county official to prevent destruction of the county clerk's or~~
18 ~~designated county official's records.~~

19 Sec. 5. Section 37-1282, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 37-1282 (1) The Department of Motor Vehicles shall
22 implement an electronic title and lien system for motor boats
23 no later than January 1, 2010. The Director of Motor Vehicles
24 shall designate the date for the implementation of the system.
25 Beginning on the implementation date, the holder of a security
26 interest, trust receipt, conditional sales contract, or similar
27 instrument regarding a motorboat may file a lien electronically

1 as prescribed by the department. Beginning on the implementation
2 date, upon receipt of an application for a certificate of title
3 for a motorboat, any lien filed electronically shall become part of
4 the electronic certificate of title record created by the county
5 clerk, designated county official, or department maintained on the
6 electronic title and lien system. Beginning on the implementation
7 date, if an application for a certificate of title indicates that
8 there is a lien or encumbrance on a motorboat or if a lien or
9 notice of lien has been filed electronically, the department shall
10 retain an electronic certificate of title record and shall note
11 and cancel such liens electronically on the system. The department
12 shall provide access to the electronic certificate of title records
13 for motorboat dealers and lienholders who participate in the system
14 by a method determined by the director.

15 ~~(1)~~ (2) The provisions of article 9, Uniform Commercial
16 Code, shall not be construed to apply to or to permit or require
17 the deposit, filing, or other record whatsoever of a security
18 agreement, conveyance intended to operate as a mortgage, trust
19 receipt, conditional sales contract, or similar instrument or any
20 copy of the same covering a motorboat. Any mortgage, conveyance
21 intended to operate as a security agreement as provided by article
22 9, Uniform Commercial Code, trust receipt, conditional sales
23 contract, or other similar instrument covering a motorboat, if
24 such instrument is accompanied by delivery of such manufacturer's
25 or importer's certificate and followed by actual and continued
26 possession of same by the holder of the instrument or, in
27 the case of a certificate of title, if a notation of same

1 has been made electronically as prescribed in subsection (1)
2 of this section or by the county clerk, the designated county
3 official, or the ~~Department of Motor Vehicles~~ department on the
4 face of the certificate of title or on the electronic certificate
5 of title record, shall be valid as against the creditors of
6 the debtor, whether armed with process or not, and subsequent
7 purchasers, secured parties, and other lienholders or claimants,
8 but otherwise shall not be valid against them, except that during
9 any period in which a motorboat is inventory, as defined in
10 section 9-102, Uniform Commercial Code, held for sale by a person
11 or corporation that is in the business of selling motorboats,
12 the filing provisions of article 9, Uniform Commercial Code, as
13 applied to inventory shall apply to a security interest in the
14 motorboat created by such person or corporation as debtor without
15 the notation of lien on the instrument of title. A buyer at retail
16 from a dealer of any motorboat in the ordinary course of business
17 shall take the motorboat free of any security interest.

18 ~~(2)~~ (3) All liens, security agreements, and encumbrances
19 noted upon a certificate of title or an electronic certificate of
20 title record and all liens noted electronically as prescribed in
21 subsection (1) of this section shall take priority according to the
22 order of time in which the same are noted ~~on the certificate~~ by the
23 county clerk, the designated county official, or the department.
24 Exposure for sale of any motorboat by the owner thereof with the
25 knowledge or with the knowledge and consent of the holder of any
26 lien, security agreement, or encumbrance on the motorboat shall not
27 render the same void or ineffective as against the creditors of

1 the owner or holder of subsequent liens, security agreements, or
2 encumbrances upon the motorboat.

3 ~~(3)~~ (4) Upon presentation of a security agreement, trust
4 receipt, conditional sales contract, or similar instrument to the
5 county clerk, ~~or~~ designated county official, or of the county
6 ~~where the certificate of title was issued or, if issued by the~~
7 ~~department,~~ to the department together with the certificate of
8 title and the fee prescribed by section 37-1287, the holder of
9 such instrument may have a notation of the lien made on the face
10 of the certificate of title. The owner of a motorboat may present
11 a valid out-of-state certificate of title issued to such owner
12 for such motorboat with a notation of lien on such certificate
13 of title and the prescribed fee to the county clerk, designated
14 county official, or department and have the notation of lien made
15 on the new certificate of title issued pursuant to section 37-1278
16 without presenting a copy of the lien instrument. The county clerk,
17 the designated county official, or the department shall enter the
18 notation and the date thereof over the signature of the person
19 making the notation and the seal of office. If noted by a county
20 clerk or designated county official, he or she shall on that day
21 notify the department which shall note the lien on its records. and
22 shall also note the lien and the date thereof on the duplicate of
23 the certificate on file. The county clerk, the designated county
24 official, or the department shall also indicate by appropriate
25 notation and on such instrument itself the fact that the lien has
26 been noted on the certificate of title.

27 ~~(4)~~ (5) The county clerk, the designated county official,

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

19 (6) Beginning on the implementation date of the
20 electronic title and lien system, upon receipt of a subsequent
21 lien instrument duly signed by the owner in the manner prescribed
22 by law governing such lien instruments or a notice of lien filed
23 electronically, together with an application for notation of the
24 subsequent lien, the fee prescribed in section 37-1287, and,
25 if a printed certificate of title exists, the presentation of
26 the certificate of title, the county clerk, designated county
27 official, or department shall make notation of such other lien.

1 If the certificate of title is not an electronic certificate of
2 title record, the county clerk, designated county official, or
3 department, upon receipt of a lien instrument duly signed by
4 the owner in the manner prescribed by law governing such lien
5 instruments together with the fee prescribed for notation of lien,
6 shall notify the first lienholder to deliver to the county clerk,
7 designated county official, or department, within fifteen days
8 after the date of notice, the certificate of title to permit
9 notation of such other lien. After such notation of lien, the
10 lien shall become part of the electronic certificate of title
11 record created by the county clerk, designated county official or
12 department which is maintained on the electronic title and lien
13 system. The holder of a certificate of title who refuses to deliver
14 a certificate of title to the county clerk, designated county
15 official, or department for the purpose of noting such other lien
16 on such certificate of title within fifteen days after the date
17 when notified to do so shall be liable for damages to such other
18 lienholder for the amount of damages such other lienholder suffered
19 by reason of the holder of the certificate of title refusing to
20 permit the noting of such lien on the certificate of title.

21 ~~(5)~~ (7) When the lien is discharged, the holder shall,
22 within fifteen days after payment is received, note a cancellation
23 of the lien on the face of the certificate of title over his,
24 her, or its signature and deliver the certificate of title to the
25 county clerk, the designated county official, or the department
26 which shall note the cancellation of the lien on the face of the
27 certificate of title and on the records of the office. If delivered

1 to a county clerk or designated county official, he or she shall
2 on that day notify the department which shall note the cancellation
3 on its records. The county clerk, the designated county official,
4 or the department shall then return the certificate of title to the
5 owner or as otherwise directed by the owner. The cancellation of
6 the lien shall be noted on the certificate of title without charge.
7 For an electronic certificate of title record, the lienholder
8 shall, within fifteen days after payment is received when such
9 lien is discharged, notify the department electronically or provide
10 written notice of such lien release, in a manner prescribed by
11 the department, to the county clerk, designated county official,
12 or department. The department shall note the cancellation of lien
13 and, if no other liens exist, issue the certificate of title to
14 the owner or as otherwise directed by the owner or lienholder. If
15 the holder of the certificate of title cannot locate a lienholder,
16 a lien may be discharged ten years after the date of filing by
17 presenting proof that thirty days have passed since the mailing of
18 a written notice by certified mail, return receipt requested, to
19 the last-known address of the lienholder.

20 (6) ~~Any exchange of information may be accomplished by~~
21 ~~the computerized exchange of information or by any other exchange~~
22 ~~of electrically, electronically, telephonically, or mechanically~~
23 ~~processed information.~~

24 Sec. 6. Beginning on the implementation date of the
25 electronic title and lien system designated by the Director of
26 Motor Vehicles pursuant to section 37-1282, if an owner of
27 a motorboat relocates to another state or country or for any

1 other purpose approved by the Department of Motor Vehicles, the
2 lienholder, at the owner's request, may request the issuance of
3 a printed certificate of title. Upon proof by the owner that a
4 lienholder has not provided the requested certificate of title
5 within fifteen days after the owner's request, the department may
6 issue to the owner a printed certificate of title with all liens
7 duly noted.

8 Sec. 7. Section 37-1283, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 37-1283 (1) In the event of the transfer of ownership of
11 a motorboat by operation of law as upon inheritance, devise, or
12 bequest, order in bankruptcy, insolvency, replevin, or execution
13 sale, (2) whenever a motorboat is sold to satisfy storage or
14 repair charges, or (3) whenever repossession is had upon default
15 in performance of the terms of a chattel mortgage, trust receipt,
16 conditional sales contract, or other like agreement, the county
17 clerk or designated county official of the county in which the last
18 certificate of title to the motorboat was issued or the Department
19 of Motor Vehicles if the last certificate of title was issued
20 by the department, upon the surrender of the prior certificate
21 of title or the manufacturer's or importer's certificate, or
22 when that is not possible, upon presentation of satisfactory
23 proof of ownership and right of possession to the motorboat, and
24 upon payment of the fee prescribed in section 37-1287 and the
25 presentation of an application for certificate of title, may issue
26 to the applicant a certificate of title thereto. If the prior
27 certificate of title issued for the motorboat provided for joint

1 ownership with right of survivorship, a new certificate of title
2 shall be issued to a subsequent purchaser upon the assignment
3 of the prior certificate of title by the surviving owner and
4 presentation of satisfactory proof of death of the deceased owner.
5 Only an affidavit by the person or agent of the person to whom
6 possession of the motorboat has so passed, setting forth facts
7 entitling him or her to such possession and ownership, together
8 with a copy of the journal entry, court order, or instrument
9 upon which such claim of possession and ownership is founded
10 shall be considered satisfactory proof of ownership and right of
11 possession, except that if the applicant cannot produce such proof
12 of ownership, he or she may submit to the department such evidence
13 as he or she may have and the department may thereupon, if it
14 finds the evidence sufficient, issue the certificate of title or
15 authorize the county clerk or designated county official to issue
16 a certificate of title, as the case may be. If from the records
17 in the office of the county clerk, the designated county official,
18 or the department there appear to be any liens on the motorboat,
19 the certificate of title shall ~~contain a statement of~~ comply with
20 section 37-1282 regarding the liens unless the application is
21 accompanied by proper evidence of their satisfaction or extinction.
22 If the county in which the last certificate of title to the
23 motorboat was issued cannot be determined, the application for
24 title shall be processed by the county clerk or designated county
25 official of the county where the court entering the journal entry
26 or order is located or the county where the instrument was executed
27 upon which the claim of possession and ownership is founded as the

1 ~~case may be-~~

2 Sec. 8. Section 37-1287, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 37-1287 (1) The county clerks, the designated county
5 officials, or the Department of Motor Vehicles shall charge a fee
6 of six dollars for each certificate of title and a fee of three
7 dollars for each notation of any lien on a certificate of title.
8 The county clerks or designated county officials shall retain
9 for the county four dollars of the six dollars charged for each
10 certificate of title and two dollars for each notation of lien. The
11 remaining amount of the fee charged for the certificate of title
12 and notation of lien under this subsection shall be remitted to the
13 State Treasurer for credit to the General Fund.

14 (2) The county clerks, the designated county officials,
15 or the department shall charge a fee of ten dollars for each
16 replacement or duplicate copy of a certificate of title, and the
17 duplicate copy issued shall show only those unreleased liens of
18 record. ~~A fee of four dollars shall be charged for refiling a~~
19 ~~certificate of title pursuant to section 37-1279.~~ Such fees shall
20 be remitted by the county or the department to the State Treasurer
21 for credit to the General Fund.

22 (3) In addition to the fees prescribed in subsections (1)
23 and (2) of this section, the county clerks, the designated county
24 officials, or the department shall charge a fee of four dollars for
25 each certificate of title, each replacement or duplicate copy of a
26 certificate of title, ~~each refiling of a certificate of title,~~ and
27 each notation of lien on a certificate of title. The county clerks,

1 the designated county officials, or the department shall remit the
2 fee charged under this subsection to the State Treasurer for credit
3 to the Department of Motor Vehicles Cash Fund.

4 (4) The county clerks or designated county officials
5 shall remit fees due the State Treasurer for credit to the General
6 Fund under this section monthly and not later than the fifth
7 day of the month following collection. The county clerks or
8 designated county officials shall remit fees not due to the State
9 Treasurer for credit to the General Fund to their respective county
10 treasurers who shall credit the fees to the county general fund.

11 Sec. 9. Section 37-1290, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 37-1290 (1) Any security interest in a motorboat
14 perfected prior to January 1, 1997, shall continue to be perfected
15 (a) until the financing statement perfecting such security interest
16 is terminated or would have lapsed in the absence of the filing of
17 a continuation statement pursuant to article 9, Uniform Commercial
18 Code, or (b) until a motorboat certificate of title is issued and a
19 lien noted ~~on the face thereof~~ pursuant to section 37-1282.

20 (2) Any lien noted on the face of a motorboat certificate
21 of title or on an electronic certificate of title record after
22 January 1, 1997, pursuant to subsection (1) of this section, on
23 behalf of the holder of a security interest in the motorboat, shall
24 have priority as of the date such security interest was originally
25 perfected.

26 (3) The holder of a motorboat certificate of title shall,
27 upon request, surrender the motorboat certificate of title to a

1 holder of a security interest in the motorboat which was perfected
2 prior to January 1, 1997, to permit notation of a lien on the
3 motorboat certificate of title and shall do such other acts as may
4 be required to permit such notation.

5 (4) The assignment, release, or satisfaction of a
6 security interest in a motorboat shall be governed by the laws
7 under which it was perfected.

8 Sec. 10. Section 60-101, Revised Statutes Supplement,
9 2007, is amended to read:

10 60-101 Sections 60-101 to 60-197 and section 16 of
11 this act shall be known and may be cited as the Motor Vehicle
12 Certificate of Title Act.

13 Sec. 11. Section 60-140, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 60-140 Except as provided in section 60-164, no person
16 acquiring a vehicle from the owner thereof, whether such owner
17 is a manufacturer, importer, dealer, or entity or person, shall
18 acquire any right, title, claim, or interest in or to such vehicle
19 until the acquiring person has had delivered to him or her physical
20 possession of such vehicle and (1) a certificate of title or a
21 duly executed manufacturer's or importer's certificate with such
22 assignments as are necessary to show title in the purchaser,
23 (2) a written instrument as required by section 60-1417, or (3)
24 an affidavit and notarized bill of sale as provided in section
25 60-142.01. No waiver or estoppel shall operate in favor of such
26 person against a person having physical possession of such vehicle
27 and such documentation. No court shall recognize the right, title,

1 claim, or interest of any person in or to a vehicle, for which a
2 certificate of title has been issued in Nebraska, sold, disposed
3 of, mortgaged, or encumbered, unless there is compliance with this
4 section. Beginning on the implementation date of the electronic
5 title and lien system designated by the director pursuant to
6 section 60-164, an electronic certificate of title record shall
7 be evidence of an owner's right, title, claim, or interest in a
8 vehicle.

9 Sec. 12. Section 60-147, Revised Statutes Supplement,
10 2007, is amended to read:

11 60-147 (1) An application for a certificate of title
12 for a mobile home or cabin trailer shall be accompanied by a
13 certificate that states that sales or use tax has been paid on
14 the purchase of the mobile home or cabin trailer or that the
15 transfer of title was exempt from sales and use taxes. The county
16 clerk or designated county official shall issue a certificate of
17 title for a mobile home or cabin trailer but shall not deliver
18 the certificate of title unless the certificate required under this
19 subsection accompanies the application for certificate of title for
20 the mobile home or cabin trailer, except that the failure of the
21 application to be accompanied by such certificate shall not prevent
22 the notation of a lien on the certificate of title to the mobile
23 home or cabin trailer pursuant to section 60-164. ~~and delivery to~~
24 ~~the holder of the first lien.~~

25 (2) An application for a certificate of title to a mobile
26 home shall be accompanied by a mobile home transfer statement
27 prescribed by the Tax Commissioner. The mobile home transfer

1 statement shall be filed by the applicant with the county clerk
2 or designated county official of the county of application for
3 title. The county clerk or designated county official shall issue
4 a certificate of title to a mobile home but shall not deliver
5 the certificate of title unless the mobile home transfer statement
6 accompanies the application for title, except that the failure to
7 provide the mobile home transfer statement shall not prevent the
8 notation of a lien on the certificate of title to the mobile home
9 pursuant to section 60-164 and delivery to the holder of the first
10 lien.

11 Sec. 13. Section 60-152, Revised Statutes Supplement,
12 2007, is amended to read:

13 60-152 (1) The county clerk or designated county official
14 shall issue a certificate of title for a vehicle in duplicate and
15 retain one copy in his or her office. An electronic copy, in a form
16 prescribed by the department, shall be transmitted on the day of
17 issuance to the department. The county clerk or designated county
18 official shall sign and affix the appropriate seal to the original
19 certificate of title and, if there are no liens on the vehicle,
20 deliver the certificate to the applicant. If there are one or more
21 liens on the vehicle, the certificate of title shall be ~~delivered~~
22 ~~or mailed to the holder of the first lien on the day of issuance.~~
23 handled as provided in section 60-164 or 60-165.

24 (2) The county clerks or county treasurers of the various
25 counties shall adopt a circular seal with the words County Clerk of
26 (insert name) County or County Treasurer of
27 (insert name) County thereon. Such seal shall be used by the county

1 clerk or county treasurer or the deputy or legal authorized
2 agent of such officer, without charge to the applicant, on
3 any certificate of title, application for certificate of title,
4 duplicate copy, assignment or reassignment, power of attorney,
5 statement, or affidavit pertaining to the issuance of a Nebraska
6 certificate of title. The designated county official or the deputy
7 or legal authorized agent of such officer shall use the seal of the
8 county, without charge to the applicant, on any such document.

9 (3) The department shall prescribe a uniform method of
10 numbering certificates of title.

11 (4) The county clerk or designated county official
12 shall (a) file all certificates of title according to rules
13 and regulations adopted and promulgated by the department, (b)
14 maintain in the office indices for such certificates of title,
15 (c) be authorized to destroy all previous records five years after
16 a subsequent transfer has been made on a vehicle, and (d) be
17 authorized to destroy all certificates of title and all supporting
18 records and documents which have been on file for a period of five
19 years or more from the date of filing the certificate or a notation
20 of lien, whichever occurs later.

21 Sec. 14. Section 60-164, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 60-164 (1) The department shall implement an electronic
24 title and lien system for vehicles no later than January 1, 2010.
25 The director shall designate the date for the implementation of
26 the system. Beginning on the implementation date, the holder of
27 a security interest, trust receipt, conditional sales contract,

1 or similar instrument regarding a vehicle may file a lien
2 electronically as prescribed by the department. Beginning on
3 the implementation date, upon receipt of an application for a
4 certificate of title for a vehicle, any lien filed electronically
5 shall become part of the electronic certificate of title record
6 created by the county clerk, designated county official, or
7 department maintained on the electronic title and lien system.
8 Beginning on the implementation date, if an application for
9 a certificate of title indicates that there is a lien or
10 encumbrance on a vehicle or if a lien or notice of lien has been
11 filed electronically, the department shall retain an electronic
12 certificate of title record and shall note and cancel such liens
13 electronically on the system. The department shall provide access
14 to the electronic certificate of title records for motor vehicle
15 dealers and lienholders who participate in the system by a method
16 determined by the director.

17 ~~(1)~~ (2) Except as provided in section 60-165, the
18 provisions of article 9, Uniform Commercial Code, shall never
19 be construed to apply to or to permit or require the deposit,
20 filing, or other record whatsoever of a security agreement,
21 conveyance intended to operate as a mortgage, trust receipt,
22 conditional sales contract, or similar instrument or any copy of
23 the same covering a vehicle. Any mortgage, conveyance intended to
24 operate as a security agreement as provided by article 9, Uniform
25 Commercial Code, trust receipt, conditional sales contract, or
26 other similar instrument covering a vehicle, if such instrument
27 is accompanied by delivery of such manufacturer's or importer's

1 certificate and followed by actual and continued possession of
2 the same by the holder of such instrument or, in the case of a
3 certificate of title, if a notation of the same has been made
4 electronically as prescribed in subsection (1) of this section
5 or by the county clerk, designated county official, or department
6 on the face thereof, of the certificate of title or on the
7 electronic certificate of title record, shall be valid as against
8 the creditors of the debtor, whether armed with process or not,
9 and subsequent purchasers, secured parties, and other lienholders
10 or claimants but otherwise shall not be valid against them, except
11 that during any period in which a vehicle is inventory, as defined
12 in section 9-102, Uniform Commercial Code, held for sale by a
13 person or corporation that is required to be licensed as provided
14 in Chapter 60, article 14, and is in the business of selling such
15 vehicles, the filing provisions of article 9, Uniform Commercial
16 Code, as applied to inventory, shall apply to a security interest
17 in such vehicle created by such person or corporation as debtor
18 without the notation of lien on the ~~instrument~~ certificate of
19 title. A buyer of a vehicle at retail from a dealer required to
20 be licensed as provided in Chapter 60, article 14, shall take such
21 vehicle free of any security interest.

22 ~~(2)~~ (3) Subject to ~~subsection (1)~~ subsections (1) and (2)
23 of this section, all liens, security agreements, and encumbrances
24 noted upon a certificate of title or an electronic certificate
25 of title record and all liens noted electronically as prescribed
26 in subsection (1) of this section shall take priority according
27 to the order of time in which the same are noted ~~thereon~~ by the

1 county clerk, designated county official, or department. Exposure
2 for sale of any vehicle by the owner thereof with the knowledge or
3 with the knowledge and consent of the holder of any lien, security
4 agreement, or encumbrance on such vehicle shall not render the
5 same void or ineffective as against the creditors of such owner
6 or holder of subsequent liens, security agreements, or encumbrances
7 upon such vehicle.

8 ~~(3)~~ (4) The holder of a security agreement, trust
9 receipt, conditional sales contract, or similar instrument,
10 upon presentation of such instrument to the department, ~~if the~~
11 ~~certificate of title was issued by the department,~~ or to any county
12 clerk or designated county official, together with the certificate
13 of title and the fee prescribed for notation of lien, may have
14 a notation of such lien made on the face of such certificate of
15 title. The owner of a vehicle may present a valid out-of-state
16 certificate of title issued to such owner for such vehicle with a
17 notation of lien on such certificate of title and the prescribed
18 fee to the county clerk, designated county official, or department
19 and have the notation of lien made on the new certificate of title
20 issued pursuant to section 60-144 without presenting a copy of the
21 lien instrument. The county clerk or designated county official or
22 the department shall enter the notation and the date thereof over
23 the signature of ~~such officer~~ the person making the notation and
24 the official seal of the office. If noted by a county clerk or
25 designated county official, he or she shall on that day notify the
26 department which shall note the lien on its records. The county
27 clerk or designated county official or the department shall also

1 indicate by appropriate notation and on such instrument itself the
2 fact that such lien has been noted on the certificate of title.

3 ~~(4)~~ (5) A transaction does not create a sale or a
4 security interest in a vehicle, other than an all-terrain vehicle
5 or a minibike, 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 vehicle.

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

1 (7) Beginning on the implementation date of the
2 electronic title and lien system, upon receipt of a subsequent
3 lien instrument duly signed by the owner in the manner prescribed
4 by law governing such lien instruments or a notice of lien filed
5 electronically, together with an application for notation of
6 the subsequent lien, the fee prescribed in section 60-154, and,
7 if a printed certificate of title exists, the presentation of
8 the certificate of title, the county clerk, designated county
9 official, or department shall make notation of such other lien.
10 If the certificate of title is not an electronic certificate of
11 title record, the county clerk, designated county official, or
12 department, upon receipt of a lien instrument duly signed by
13 the owner in the manner prescribed by law governing such lien
14 instruments together with the fee prescribed for notation of lien,
15 shall notify the first lienholder to deliver to the county clerk,
16 designated county official, or department, within fifteen days
17 after the date of notice, the certificate of title to permit
18 notation of such other lien. After such notation of lien, the
19 lien shall become part of the electronic certificate of title
20 record created by the county clerk, designated county official, or
21 department which is maintained on the electronic title and lien
22 system. The holder of a certificate of title who refuses to deliver
23 a certificate of title to the county clerk, designated county
24 official, or department for the purpose of noting such other lien
25 on such certificate of title within fifteen days after the date
26 when notified to do so shall be liable for damages to such other
27 lienholder for the amount of damages such other lienholder suffered

1 by reason of the holder of the certificate of title refusing to
2 permit the noting of such lien on the certificate of title.

3 ~~(6)~~ (8) 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 certificate of title over his, her, or its
6 signature and deliver the certificate of title to the county clerk
7 or designated county official or the department, which shall note
8 the cancellation of the lien on the face of the certificate of
9 title and on the records of such office. If delivered to a county
10 clerk or designated county official, he or she shall on that
11 day notify the department which shall note the cancellation on
12 its records. The county clerk or designated county official or
13 the department shall then return the certificate of title to the
14 owner or as otherwise directed by the owner. The cancellation of
15 lien shall be noted on the certificate of title without charge.
16 For an electronic certificate of title record, the lienholder
17 shall, within fifteen days after payment is received when such
18 lien is discharged, notify the department electronically or provide
19 written notice of such lien release, in a manner prescribed by
20 the department, to the county clerk, designated county official,
21 or department. The department shall note the cancellation of lien
22 and, if no other liens exist, issue the certificate of title to
23 the owner or as otherwise directed by the owner or lienholder. If
24 the holder of the title cannot locate a lienholder, a lien may be
25 discharged ten years after the date of filing by presenting proof
26 that thirty days have passed since the mailing of a written notice
27 by certified mail, return receipt requested, to the last-known

1 address of the lienholder.

2 Sec. 15. Section 60-165, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 60-165 (1) Any security interest in an all-terrain
5 vehicle or minibike perfected pursuant to article 9, Uniform
6 Commercial Code, before, on, or after January 1, 2004, shall
7 continue to be perfected until (a) the financing statement
8 perfecting such security interest is terminated or lapses in
9 the absence of the filing of a continuation statement pursuant to
10 article 9, Uniform Commercial Code, or (b) an all-terrain vehicle
11 or minibike certificate of title is issued and a notation of lien
12 is made as provided in section 60-164.

13 (2) Any lien noted on the face of an all-terrain vehicle
14 or minibike certificate of title or on an electronic certificate
15 of title record pursuant to subsection (1), (3), or (4) of this
16 section, on behalf of the holder of a security interest in the
17 all-terrain vehicle or minibike which was previously perfected
18 pursuant to article 9, Uniform Commercial Code, shall have priority
19 as of the date such security interest was originally perfected.

20 (3) The holder of a certificate of title for an
21 all-terrain vehicle or minibike shall, upon request, surrender
22 the certificate of title to a holder of a previously perfected
23 security interest in the all-terrain vehicle or minibike to permit
24 notation of a lien on the certificate of title or on an electronic
25 certificate of title record and shall do such other acts as may be
26 required to permit such notation.

27 (4) If the owner of an all-terrain vehicle or minibike

1 subject to a security interest perfected pursuant to article 9,
2 Uniform Commercial Code, fails or refuses to obtain a certificate
3 of title after January 1, 2004, the security interest holder may
4 obtain a certificate of title in the name of the owner of the
5 all-terrain vehicle or minibike following the procedures of section
6 60-144 and may have a lien noted on the certificate of title or
7 on an electronic certificate of title record pursuant to section
8 60-164.

9 (5) The assignment, release, or satisfaction of a
10 security interest in an all-terrain vehicle or minibike shall be
11 governed by the laws under which it was perfected.

12 Sec. 16. Beginning on the implementation date of the
13 electronic title and lien system designated by the director
14 pursuant to section 60-164, if an owner of a vehicle relocates
15 to another state or country or for any other purpose approved
16 by the department, the lienholder, at the owner's request, may
17 request the issuance of a printed certificate of title. Upon proof
18 by the owner that a lienholder has not provided the requested
19 certificate of title within fifteen days after the owner's request,
20 the department may issue to the owner a printed certificate of
21 title with all liens duly noted.

22 Sec. 17. Section 60-166, Revised Statutes Supplement,
23 2007, is amended to read:

24 60-166 (1) In the event of (a) the transfer of ownership
25 of a vehicle by operation of law as upon inheritance, devise, or
26 bequest, order in bankruptcy, insolvency, replevin, or execution
27 sale or as provided in sections 30-24,125, 52-601.01 to 52-605,

1 60-1901 to 60-1911, and 60-2401 to 60-2411, (b) the engine of a
2 vehicle being replaced by another engine, (c) a vehicle being sold
3 to satisfy storage or repair charges, or (d) repossession being had
4 upon default in performance of the terms of a chattel mortgage,
5 trust receipt, conditional sales contract, or other like agreement,
6 the county clerk or designated county official of any county or
7 the department, if the last certificate of title was issued by
8 the department, upon the surrender of the prior certificate of
9 title or the manufacturer's or importer's certificate, or when
10 that is not possible, upon presentation of satisfactory proof of
11 ownership and right of possession to such vehicle, and upon payment
12 of the appropriate fee and the presentation of an application for
13 certificate of title, may issue to the applicant a certificate of
14 title thereto. If the prior certificate of title issued for such
15 vehicle provided for joint ownership with right of survivorship, a
16 new certificate of title shall be issued to a subsequent purchaser
17 upon the assignment of the prior certificate of title by the
18 surviving owner and presentation of satisfactory proof of death
19 of the deceased owner. Only an affidavit by the person or agent
20 of the person to whom possession of such vehicle has so passed,
21 setting forth facts entitling him or her to such possession and
22 ownership, together with a copy of the journal entry, court order,
23 or instrument upon which such claim of possession and ownership
24 is founded, shall be considered satisfactory proof of ownership
25 and right of possession, except that if the applicant cannot
26 produce such proof of ownership, he or she may submit to the
27 department such evidence as he or she may have, and the department

1 may thereupon, if it finds the evidence sufficient, issue the
2 certificate of title or authorize the county clerk or designated
3 county official to issue a certificate of title, as the case may
4 be.

5 (2) If from the records in the office of the county clerk
6 or designated county official or the department there appear to be
7 any liens on such vehicle, such certificate of title shall ~~contain~~
8 ~~a statement of~~ comply with section 60-164 or 60-165 regarding such
9 liens unless the application is accompanied by proper evidence of
10 their satisfaction or extinction.

11 Sec. 18. Original sections 37-1201, 37-1211, 37-1277,
12 37-1279, 37-1282, 37-1283, 37-1287, and 37-1290, Reissue Revised
13 Statutes of Nebraska, sections 60-140, 60-164, and 60-165,
14 Revised Statutes Cumulative Supplement, 2006, and sections 60-101,
15 60-147, 60-152, and 60-166, Revised Statutes Supplement, 2007, are
16 repealed.