

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 953

FINAL READING

Introduced by Nelson, 6.

Read first time January 14, 2008

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to mobile homes and manufactured homes;
2 to amend sections 60-137 and 60-164, Revised Statutes
3 Supplement, 2007; to provide classification under
4 bankruptcy plans, certificate of title requirements, and
5 security interest perfection as prescribed; and to repeal
6 the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of a bankruptcy plan under 11
2 U.S.C. chapter 13, a manufactured home or a mobile home shall be
3 deemed real property under subdivision (b) (2) of 11 U.S.C. 1322, as
4 such section existed on the effective date of this act.

5 Sec. 2. Section 60-137, Revised Statutes Supplement,
6 2007, is amended to read:

7 60-137 (1) The Motor Vehicle Certificate of Title Act
8 applies to all vehicles as defined in the act, except:

9 (a) Farm trailers;

10 (b) Low-speed vehicles;

11 (c) Well-boring apparatus, backhoes, bulldozers, and
12 front-end loaders; and

13 (d) Trucks and buses from other jurisdictions required
14 to pay registration fees under the Motor Vehicle Registration Act,
15 except a vehicle registered or eligible to be registered as part of
16 a fleet of apportionable vehicles under section 60-3,198.

17 (2) All new all-terrain vehicles and minibikes sold on or
18 after January 1, 2004, shall be required to have a certificate of
19 title. An owner of an all-terrain vehicle or minibike sold prior to
20 such date may apply for a certificate of title for such all-terrain
21 vehicle or minibike as provided in rules and regulations of the
22 department.

23 (3) An owner of a utility trailer may apply for a
24 certificate of title upon compliance with the Motor Vehicle
25 Certificate of Title Act.

1 (4) (a) Every owner of a manufactured home or mobile home
 2 shall obtain a certificate of title for the manufactured home or
 3 mobile home prior to affixing it to real estate.

4 (b) If a manufactured home or mobile home has been
 5 affixed to real estate and a certificate of title was not issued
 6 before it was so affixed, the owner of such manufactured home or
 7 mobile home shall apply for and be issued a certificate of title
 8 at any time for surrender and cancellation as provided in section
 9 60-169.

10 Sec. 3. Section 60-164, Revised Statutes Supplement,
 11 2007, is amended to read:

12 60-164 (1) Except as provided in section 60-165, the
 13 provisions of article 9, Uniform Commercial Code, shall never be
 14 construed to apply to or to permit or require the deposit, filing,
 15 or other record whatsoever of a security agreement, conveyance
 16 intended to operate as a mortgage, trust receipt, conditional sales
 17 contract, or similar instrument or any copy of the same covering a
 18 vehicle. Any mortgage, conveyance intended to operate as a security
 19 agreement as provided by article 9, Uniform Commercial Code, trust
 20 receipt, conditional sales contract, or other similar instrument
 21 covering a vehicle, if such instrument is accompanied by delivery
 22 of such manufacturer's or importer's certificate and followed by
 23 actual and continued possession of the same by the holder of
 24 such instrument or, in the case of a certificate of title, if a
 25 notation of the same has been made by the county clerk, designated

1 county official, or department on the face thereof, shall be
2 valid as against the creditors of the debtor, whether armed with
3 process or not, and subsequent purchasers, secured parties, and
4 other lienholders or claimants but otherwise shall not be valid
5 against them, except that during any period in which a vehicle is
6 inventory, as defined in section 9-102, Uniform Commercial Code,
7 held for sale by a person or corporation that is required to
8 be licensed as provided in Chapter 60, article 14, and is in
9 the business of selling such vehicles, the filing provisions of
10 article 9, Uniform Commercial Code, as applied to inventory, shall
11 apply to a security interest in such vehicle created by such
12 person or corporation as debtor without the notation of lien on
13 the instrument of title. A buyer of a vehicle at retail from a
14 dealer required to be licensed as provided in Chapter 60, article
15 14, shall take such vehicle free of any security interest. A
16 purchase-money security interest, as defined in section 9-103,
17 Uniform Commercial Code, in a vehicle is perfected against the
18 rights of judicial lien creditors and execution creditors on and
19 after the date the purchase-money security interest attaches.

20 (2) Subject to subsection (1) of this section, all liens,
21 security agreements, and encumbrances noted upon a certificate of
22 title shall take priority according to the order of time in which
23 the same are noted thereon by the county clerk, designated county
24 official, or department. Exposure for sale of any vehicle by the
25 owner thereof with the knowledge or with the knowledge and consent

1 of the holder of any lien, security agreement, or encumbrance on
2 such vehicle shall not render the same void or ineffective as
3 against the creditors of such owner or holder of subsequent liens,
4 security agreements, or encumbrances upon such vehicle.

5 (3) The holder of a security agreement, trust
6 receipt, conditional sales contract, or similar instrument,
7 upon presentation of such instrument to the department, if the
8 certificate of title was issued by the department, or to any county
9 clerk or designated county official, together with the certificate
10 of title and the fee prescribed for notation of lien, may have
11 a notation of such lien made on the face of such certificate
12 of title. The county clerk or designated county official or the
13 department shall enter the notation and the date thereof over the
14 signature of such officer and the official seal. If noted by a
15 county clerk or designated county official, he or she shall on that
16 day notify the department which shall note the lien on its records.
17 The county clerk or designated county official or the department
18 shall also indicate by appropriate notation and on such instrument
19 itself the fact that such lien has been noted on the certificate
20 of title.

21 (4) A transaction does not create a sale or a security
22 interest in a vehicle, other than an all-terrain vehicle or a
23 minibike, merely because it provides that the rental price is
24 permitted or required to be adjusted under the agreement either
25 upward or downward by reference to the amount realized upon sale or

1 other disposition of the vehicle.

2 (5) The county clerk or designated county official or
3 the 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 or designated county official or the department, within fifteen
8 days after the date of notice, the certificate of title to permit
9 notation of such other lien and, after notation of such other lien,
10 the county clerk or designated county official or the department
11 shall deliver the certificate of title to the first lienholder.
12 The holder of a certificate of title who refuses to deliver a
13 certificate of title to the county clerk or designated county
14 official or the department for the purpose of showing such other
15 lien on such certificate of title within fifteen days after the
16 date of notice shall be liable for damages to such other lienholder
17 for the amount of damages such other lienholder suffered by reason
18 of the holder of the certificate of title refusing to permit the
19 showing of such lien on the certificate of title.

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

1 and on the records of such office. If delivered to a county clerk
2 or designated county official, he or she shall on that day notify
3 the department which shall note the cancellation on its records.
4 The county clerk or designated county official or the department
5 shall then return the certificate of title to the owner or as
6 otherwise directed by the owner. The cancellation of lien shall be
7 noted on the certificate of title without charge. If the holder
8 of the title cannot locate a lienholder, a lien may be discharged
9 ten years after the date of filing by presenting proof that thirty
10 days have passed since the mailing of a written notice by certified
11 mail, return receipt requested, to the last-known address of the
12 lienholder.

13 Sec. 4. Original sections 60-137 and 60-164, Revised
14 Statutes Supplement, 2007, are repealed.