

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 953

Introduced by Nelson, 6.

Read first time January 14, 2008

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to liens; to amend section 60-107, Revised
2 Statutes Cumulative Supplement, 2006, and sections
3 60-137, 60-147, and 60-164, Revised Statutes Supplement,
4 2007; to change provisions relating to mobile homes
5 and manufactured homes; to harmonize provisions; and to
6 repeal 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 may be
3 deemed real property under subdivision (b) (2) of 11 U.S.C. section
4 1322, as such section existed on the effective date of this act.

5 Sec. 2. Section 60-107, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 60-107 Cabin trailer means a trailer or a semitrailer,
8 which is designed, constructed, and equipped as a dwelling place,
9 living abode, or sleeping place, whether used for such purposes
10 or instead permanently or temporarily for the advertising, sale,
11 display, or promotion of merchandise or services or for any other
12 commercial purpose except transportation of property for hire or
13 transportation of property for distribution by a private carrier.
14 Cabin trailer does not mean a trailer or semitrailer which is
15 permanently attached to real estate. There are four classes of
16 cabin trailers:

17 (1) Camping trailer which includes cabin trailers one
18 hundred two inches or less in width and forty feet or less in
19 length and adjusted mechanically smaller for towing;

20 (2) Mobile home which includes cabin trailers more than
21 one hundred two inches in width or more than forty feet in length;

22 (3) Travel trailer which includes cabin trailers not more
23 than one hundred two inches in width nor more than forty feet
24 in length from front hitch to rear bumper, except as provided in
25 subdivision (2)(k) of section 60-6,288; and

1 (4) Manufactured home means a structure, whether or not
2 permanently attached to real estate, transportable in one or more
3 sections, which in the traveling mode is eight body feet or more
4 in width or forty body feet or more in length or when erected
5 on site is three hundred twenty or more square feet and which
6 is built on a permanent frame and designed to be used as a
7 dwelling with or without a permanent foundation when connected
8 to the required utilities and includes the plumbing, heating, air
9 conditioning, and electrical systems contained in the structure,
10 except that manufactured home includes any structure that meets
11 all of the requirements of this subdivision other than the size
12 requirements and with respect to which the manufacturer voluntarily
13 files a certification required by the United States Secretary
14 of Housing and Urban Development and complies with the standards
15 established under the National Manufactured Housing Construction
16 and Safety Standards Act of 1974, as such act existed on September
17 1, 2001, 42 U.S.C. 5401 et seq. Manufactured home also includes
18 any manufactured home designed and manufactured with more than one
19 separate living unit for the purpose of multifamily living.

20 Sec. 3. Section 60-137, Revised Statutes Supplement,
21 2007, is amended to read:

22 60-137 (1) The Motor Vehicle Certificate of Title Act
23 applies to all vehicles as defined in the act, except:

24 (a) Farm trailers;

25 (b) Low-speed vehicles;

1 (c) Well-boring apparatus, backhoes, bulldozers, and
2 front-end loaders; and

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

7 (2) All new all-terrain vehicles and minibikes sold on or
8 after January 1, 2004, shall be required to have a certificate of
9 title. An owner of an all-terrain vehicle or minibike sold prior to
10 such date may apply for a certificate of title for such all-terrain
11 vehicle or minibike as provided in rules and regulations of the
12 department.

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

16 (4) The owner of a manufactured home or a mobile home
17 which is affixed to real estate and for which a certificate
18 of title has not previously been issued and surrendered for
19 cancellation may apply for a certificate of title which shall be
20 issued for the sole purpose of (a) surrendering such certificate
21 of title for cancellation in accordance with subdivision (1)(b) of
22 section 60-169 or (b) satisfying the requirements of subdivision
23 (e) (4) of section 9-334, Uniform Commercial Code. The department
24 shall issue a certificate of title in accordance with subdivision
25 (e) (4) of section 9-334, Uniform Commercial Code, upon satisfaction

1 of the application requirements of the Motor Vehicle Certificate of
2 Title Act, including, as applicable, the requirements of section
3 60-167.

4 Sec. 4. Section 60-147, Revised Statutes Supplement,
5 2007, is amended to read:

6 60-147 (1) An application for a certificate of title
7 for a manufactured home, mobile home, or cabin trailer shall be
8 accompanied by a certificate that states that sales or use tax has
9 been paid on the purchase of the manufactured home, mobile home, or
10 cabin trailer or that the transfer of title was exempt from sales
11 and use taxes. The county clerk or designated county official shall
12 issue a certificate of title for a manufactured home, mobile home,
13 or cabin trailer but shall not deliver the certificate of title
14 unless the certificate required under this subsection accompanies
15 the application for certificate of title for the manufactured
16 home, mobile home, or cabin trailer, except that the failure of
17 the application to be accompanied by such certificate shall not
18 prevent the notation of a lien on the certificate of title to
19 the manufactured home, mobile home, or cabin trailer pursuant to
20 section 60-164 and delivery to the holder of the first lien.

21 (2) An application for a certificate of title to a
22 manufactured home or mobile home shall be accompanied by a
23 manufactured home or mobile home transfer statement prescribed
24 by the Tax Commissioner. The manufactured home or mobile home
25 transfer statement shall be filed by the applicant with the county

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

11 Sec. 5. Section 60-164, Revised Statutes Supplement,
12 2007, is amended to read:

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

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

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

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

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

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

1 upward or downward by reference to the amount realized upon sale or
2 other disposition of the vehicle.

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

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

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

14 Sec. 6. Original section 60-107, Revised Statutes
15 Cumulative Supplement, 2006, and sections 60-137, 60-147, and
16 60-164, Revised Statutes Supplement, 2007, are repealed.