

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 202

Introduced by Transportation and Telecommunications Committee Fischer, 43, Chairperson; Campbell, 25; Hadley, 37; Janssen, 15; Lautenbaugh, 18; Louden, 49; Stuthman, 22.

Read first time January 12, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to certificates of title; to amend sections
2 37-1201, 37-1211, 37-1277, 37-1279, 37-1282, 37-1283,
3 37-1287, and 37-1290, Reissue Revised Statutes of
4 Nebraska, and sections 60-101, 60-140, 60-147, 60-152,
5 60-164, 60-165, 60-166, and 60-168.01, Revised Statutes
6 Cumulative Supplement, 2008; to provide for electronic
7 records of certificates of title and electronic notation
8 of liens; to change provisions relating to certificates
9 of title; to harmonize provisions; and to repeal the
10 original sections.

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

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

3 37-1201 Sections 37-1201 to 37-12,110 and section 6 of
4 this act shall be known and may be cited as the State Boat Act.
5 It is the policy of this state to promote safety for persons and
6 property in and connected with the use, operation, and equipment of
7 vessels and to promote uniformity of laws relating thereto.

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

10 37-1211 (1) Except as provided in subsections (2) and (3)
11 of this section and sections 37-1249 and 37-1250, every motorboat
12 on the waters of this state shall be numbered and no person shall
13 operate or give permission for the operation of any vessel on such
14 waters unless the vessel is numbered in accordance with the State
15 Boat Act or in accordance with the laws of another state if the
16 commission has by regulation approved the numbering system of such
17 state and unless the certificate of number awarded to such vessel
18 is in full force and effect and the identifying number set forth in
19 the certificate of number is displayed and legible on each side of
20 the forward half of the vessel.

21 (2) The owner of each motorboat may operate or give
22 permission for the operation of such vessel for thirty days from
23 the date the vessel was acquired in anticipation of the vessel
24 being numbered. A duly executed bill of sale, certificate of title,
25 or other satisfactory evidence of the right of possession of the

1 vessel as prescribed by the Department of Motor Vehicles must be
2 available for inspection at all times from the operator of the
3 vessel.

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

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

15 37-1277 (1) Except as provided in subsections (2) and (3)
16 of this section, no person acquiring a motorboat from the owner
17 thereof, whether the owner is a manufacturer, importer, dealer,
18 or otherwise, shall acquire any right, title, claim, or interest
19 in or to such motorboat until he or she has physical possession
20 of the motorboat and a certificate of title or a manufacturer's
21 or importer's certificate with assignments on the certificate to
22 show title in the purchaser or an instrument in writing required
23 by section 37-1281. No waiver or estoppel shall operate in favor
24 of such person against a person having physical possession of
25 the motorboat and the certificate of title, the manufacturer's or

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

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

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

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

25 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 Department of Motor Vehicles. Each county shall issue and file
20 certificates of title using the vehicle titling and registration
21 computer system. The ~~department~~ shall use a portion of the fees
22 appropriated from boat titling and credited to the Department of
23 Motor Vehicles Cash Fund to pay for the costs of the boat titling
24 system. The costs shall be limited to printers as deemed necessary
25 by the department to support the issuance of boat titles by the

1 **counties.**

2 (2) Each county clerk or designated county official of
3 the various counties shall provide his or her seal without charge
4 to the applicant on any certificate of title, application for
5 certificate of title, duplicate copy, assignment or reassignment,
6 power of attorney, statement, or affidavit pertaining to the
7 issuance of a certificate of title. The department shall prescribe
8 a uniform method of numbering certificates of title.

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

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

24 37-1282 (1) The Department of Motor Vehicles shall
25 implement an electronic title and lien system for motorboats

1 no later than January 1, 2011. The Director of Motor Vehicles
2 shall designate the date for the implementation of the system.
3 Beginning on the implementation date, the holder of a security
4 interest, trust receipt, conditional sales contract, or similar
5 instrument regarding a motorboat may file a lien electronically
6 as prescribed by the department. Beginning on the implementation
7 date, upon receipt of an application for a certificate of title
8 for a motorboat, any lien filed electronically shall become part of
9 the electronic certificate of title record created by the county
10 clerk, designated county official, or department maintained on the
11 electronic title and lien system. Beginning on the implementation
12 date, if an application for a certificate of title indicates that
13 there is a lien or encumbrance on a motorboat or if a lien or
14 notice of lien has been filed electronically, the department shall
15 retain an electronic certificate of title record and shall note
16 and cancel such liens electronically on the system. The department
17 shall provide access to the electronic certificate of title records
18 for motorboat dealers and lienholders who participate in the system
19 by a method determined by the director.

20 (1) (2) The provisions of article 9, Uniform Commercial
21 Code, shall not be construed to apply to or to permit or require
22 the deposit, filing, or other record whatsoever of a security
23 agreement, conveyance intended to operate as a mortgage, trust
24 receipt, conditional sales contract, or similar instrument or any
25 copy of the same covering a motorboat. Any mortgage, conveyance

1 intended to operate as a security agreement as provided by article
2 9, Uniform Commercial Code, trust receipt, conditional sales
3 contract, or other similar instrument covering a motorboat, if
4 such instrument is accompanied by delivery of such manufacturer's
5 or importer's certificate and followed by actual and continued
6 possession of same by the holder of the instrument or, in
7 the case of a certificate of title, if a notation of same
8 has been made electronically as prescribed in subsection (1)
9 of this section or by the county clerk, the designated county
10 official, or the Department of Motor Vehicles department on the
11 face of the certificate of title or on the electronic certificate
12 of title record, shall be valid as against the creditors of
13 the debtor, whether armed with process or not, and subsequent
14 purchasers, secured parties, and other lienholders or claimants,
15 but otherwise shall not be valid against them, except that during
16 any period in which a motorboat is inventory, as defined in
17 section 9-102, Uniform Commercial Code, held for sale by a person
18 or corporation that is in the business of selling motorboats,
19 the filing provisions of article 9, Uniform Commercial Code, as
20 applied to inventory, shall apply to a security interest in the
21 motorboat created by such person or corporation as debtor without
22 the notation of lien on the instrument of title. A buyer at retail
23 from a dealer of any motorboat in the ordinary course of business
24 shall take the motorboat free of any security interest.

25 (2) (3) All liens, security agreements, and encumbrances

1 noted upon a certificate of title or an electronic certificate of
2 title record and all liens noted electronically as prescribed in
3 subsection (1) of this section shall take priority according to
4 the order of time in which the same are noted on the certificate
5 of title by the county clerk, the designated county official, or
6 the department. Exposure for sale of any motorboat by the owner
7 thereof with the knowledge or with the knowledge and consent of
8 the holder of any lien, security agreement, or encumbrance on the
9 motorboat shall not render the same void or ineffective as against
10 the creditors of the owner or holder of subsequent liens, security
11 agreements, or encumbrances upon the motorboat.

12 (3) (4) Upon presentation of a security agreement, trust
13 receipt, conditional sales contract, or similar instrument to the
14 county clerk, or designated county official, or of the county
15 where the certificate of title was issued or, if issued by the
16 department, to the department together with the certificate of
17 title and the fee prescribed by section 37-1287, the holder of
18 such instrument may have a notation of the lien made on the face
19 of the certificate of title. The owner of a motorboat may present
20 a valid out-of-state certificate of title issued to such owner
21 for such motorboat with a notation of lien on such certificate
22 of title and the prescribed fee to the county clerk, designated
23 county official, or department and have the notation of lien made
24 on the face of the new certificate of title issued pursuant to
25 section 37-1278 without presenting a copy of the lien instrument.

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

11 (4) (5) The county clerk, the designated county official,
12 or the department, upon receipt of a lien instrument duly signed
13 by the owner in the manner prescribed by law governing such
14 lien instruments together with the fee prescribed for notation of
15 lien, shall notify the first lienholder to deliver to the county
16 clerk, the designated county official, or the department, within
17 fifteen days from the date of notice, the certificate of title to
18 permit notation of the junior such other lien and, after notation
19 of the such other lien, the county clerk, the designated county
20 official, or the department shall deliver the certificate of title
21 to the first lienholder. The holder of a certificate of title who
22 refuses to deliver a certificate of title to the county clerk, the
23 designated county official, or the department for the purpose of
24 showing a junior such other lien on the certificate of title within
25 fifteen days from the date when notified to do so shall be liable

1 for damages to the junior such other lienholder for the amount of
2 damages the junior such other lienholder suffered by reason of the
3 holder of the certificate of title refusing to permit the showing
4 of the such lien on the certificate of title.

5 (6) Beginning on the implementation date of the
6 electronic title and lien system, upon receipt of a subsequent
7 lien instrument duly signed by the owner in the manner prescribed
8 by law governing such lien instruments or a notice of lien filed
9 electronically, together with an application for notation of the
10 subsequent lien, the fee prescribed in section 37-1287, and,
11 if a printed certificate of title exists, the presentation of
12 the certificate of title, the county clerk, designated county
13 official, or department shall make notation of such other lien.
14 If the certificate of title is not an electronic certificate of
15 title record, the county clerk, designated county official, or
16 department, upon receipt of a lien instrument duly signed by
17 the owner in the manner prescribed by law governing such lien
18 instruments together with the fee prescribed for notation of lien,
19 shall notify the first lienholder to deliver to the county clerk,
20 designated county official, or department, within fifteen days
21 after the date of notice, the certificate of title to permit
22 notation of such other lien. After such notation of lien, the
23 lien shall become part of the electronic certificate of title
24 record created by the county clerk, designated county official, or
25 department which is maintained on the electronic title and lien

1 system. The holder of a certificate of title who refuses to deliver
2 a certificate of title to the county clerk, designated county
3 official, or department for the purpose of noting such other lien
4 on such certificate of title within fifteen days after the date
5 when notified to do so shall be liable for damages to such other
6 lienholder for the amount of damages such other lienholder suffered
7 by reason of the holder of the certificate of title refusing to
8 permit the noting of such lien on the certificate of title.

9 (5) (7) When the lien is discharged, the holder shall,
10 within fifteen days after payment is received, note a cancellation
11 of the lien on the face of the certificate of title over his,
12 her, or its signature and deliver the certificate of title to the
13 county clerk, the designated county official, or the department
14 which shall note the cancellation of the lien on the face of the
15 certificate of title and on the records of the office. If delivered
16 to a county clerk or designated county official, he or she shall
17 on that day notify the department which shall note the cancellation
18 on its records. The county clerk, the designated county official,
19 or the department shall then return the certificate of title to the
20 owner or as otherwise directed by the owner. The cancellation of
21 the lien shall be noted on the certificate of title without charge.
22 For an electronic certificate of title record, the lienholder
23 shall, within fifteen days after payment is received when such
24 lien is discharged, notify the department electronically or provide
25 written notice of such lien release, in a manner prescribed by

1 the department, to the county clerk, designated county official,
2 or department. The department shall note the cancellation of lien
3 and, if no other liens exist, issue the certificate of title to
4 the owner or as otherwise directed by the owner or lienholder. If
5 the holder of the certificate of title cannot locate a lienholder,
6 a lien may be discharged ten years after the date of filing by
7 presenting proof that thirty days have passed since the mailing of
8 a written notice by certified mail, return receipt requested, to
9 the last-known address of the lienholder.

10 (6) Any exchange of information may be accomplished by
11 the computerized exchange of information or by any other exchange
12 of electrically, electronically, telephonically, or mechanically
13 processed information.

14 Sec. 6. Beginning on the implementation date of the
15 electronic title and lien system designated by the Director of
16 Motor Vehicles pursuant to section 37-1282, a lienholder, at the
17 owner's request, may request the issuance of a printed certificate
18 of title if the owner of the motorboat relocates to another state
19 or country or if requested for any other purpose approved by
20 the Department of Motor Vehicles. Upon proof by the owner that
21 a lienholder has not provided the requested certificate of title
22 within fifteen days after the owner's request, the department may
23 issue to the owner a printed certificate of title with all liens
24 duly noted.

25 Sec. 7. Section 37-1283, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 37-1283 (1) In the event of the transfer of ownership of
3 a motorboat by operation of law as upon inheritance, devise, or
4 bequest, order in bankruptcy, insolvency, replevin, or execution
5 sale, (2) whenever a motorboat is sold to satisfy storage or
6 repair charges, or (3) whenever repossession is had upon default
7 in performance of the terms of a chattel mortgage, trust receipt,
8 conditional sales contract, or other like agreement, the county
9 clerk or designated county official of the county in which the last
10 certificate of title to the motorboat was issued or the Department
11 of Motor Vehicles if the last certificate of title was issued
12 by the department, upon the surrender of the prior certificate
13 of title or the manufacturer's or importer's certificate, or
14 when that is not possible, upon presentation of satisfactory
15 proof of ownership and right of possession to the motorboat, and
16 upon payment of the fee prescribed in section 37-1287 and the
17 presentation of an application for certificate of title, may issue
18 to the applicant a certificate of title thereto. If the prior
19 certificate of title issued for the motorboat provided for joint
20 ownership with right of survivorship, a new certificate of title
21 shall be issued to a subsequent purchaser upon the assignment
22 of the prior certificate of title by the surviving owner and
23 presentation of satisfactory proof of death of the deceased owner.
24 Only an affidavit by the person or agent of the person to whom
25 possession of the motorboat has so passed, setting forth facts

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

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

25 37-1287 (1) The county clerks, the designated county

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

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

18 (3) In addition to the fees prescribed in subsections (1)
19 and (2) of this section, the county clerks, the designated county
20 officials, or the department shall charge a fee of four dollars for
21 each certificate of title, each replacement or duplicate copy of a
22 certificate of title, each refiling of a certificate of title, and
23 each notation of lien on a certificate of title. The county clerks,
24 the designated county officials, or the department shall remit the
25 fee charged under this subsection to the State Treasurer for credit

1 to the Department of Motor Vehicles Cash Fund.

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

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

11 37-1290 (1) Any security interest in a motorboat
12 perfected prior to January 1, 1997, shall continue to be perfected
13 (a) until the financing statement perfecting such security interest
14 is terminated or would have lapsed in the absence of the filing of
15 a continuation statement pursuant to article 9, Uniform Commercial
16 Code, or (b) until a motorboat certificate of title is issued and a
17 lien noted on the face thereof pursuant to section 37-1282.

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

24 (3) The holder of a motorboat certificate of title shall,
25 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 Cumulative
9 Supplement, 2008, 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, 2008, 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

1 person against a person having physical possession of such vehicle
2 and such documentation. No court shall recognize the right, title,
3 claim, or interest of any person in or to a vehicle, for which a
4 certificate of title has been issued in Nebraska, sold, disposed
5 of, mortgaged, or encumbered, unless there is compliance with this
6 section. Beginning on the implementation date of the electronic
7 title and lien system designated by the director pursuant to
8 section 60-164, an electronic certificate of title record shall
9 be evidence of an owner's right, title, claim, or interest in a
10 vehicle.

11 Sec. 12. Section 60-147, Revised Statutes Cumulative
12 Supplement, 2008, is amended to read:

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

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1 the holder of the first lien.

15 Sec. 13. Section 60-152, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

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

1 provided in section 60-164 or 60-165. delivered or mailed to the
2 holder of the first lien on the day of issuance.

3 (2) The county clerks or county treasurers of the various
4 counties shall adopt a circular seal with the words County Clerk of
5 (insert name) County or County Treasurer of
6 (insert name) County thereon. Such seal shall be used by the county
7 clerk or county treasurer or the deputy or legal authorized
8 agent of such officer, without charge to the applicant, on
9 any certificate of title, application for certificate of title,
10 duplicate copy, assignment or reassignment, power of attorney,
11 statement, or affidavit pertaining to the issuance of a Nebraska
12 certificate of title. The designated county official or the deputy
13 or legal authorized agent of such officer shall use the seal of the
14 county, without charge to the applicant, on any such document.

15 (3) The department shall prescribe a uniform method of
16 numbering certificates of title.

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

1 of lien, whichever occurs later.

2 Sec. 14. Section 60-164, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 60-164 (1) The department shall implement an electronic
5 title and lien system for vehicles no later than January 1, 2011.
6 The director shall designate the date for the implementation of
7 the system. Beginning on the implementation date, the holder of
8 a security interest, trust receipt, conditional sales contract,
9 or similar instrument regarding a vehicle may file a lien
10 electronically as prescribed by the department. Beginning on
11 the implementation date, upon receipt of an application for a
12 certificate of title for a vehicle, any lien filed electronically
13 shall become part of the electronic certificate of title record
14 created by the county clerk, designated county official, or
15 department maintained on the electronic title and lien system.
16 Beginning on the implementation date, if an application for
17 a certificate of title indicates that there is a lien or
18 encumbrance on a vehicle or if a lien or notice of lien has been
19 filed electronically, the department shall retain an electronic
20 certificate of title record and shall note and cancel such liens
21 electronically on the system. The department shall provide access
22 to the electronic certificate of title records for motor vehicle
23 dealers and lienholders who participate in the system by a method
24 determined by the director.

25 (1) (2) Except as provided in section 60-165, the

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

1 shall apply to a security interest in such vehicle created by such
2 person or corporation as debtor without the notation of lien on the
3 instrument certificate of title. A buyer of a vehicle at retail
4 from a dealer required to be licensed as provided in Chapter 60,
5 article 14, shall take such vehicle free of any security interest.
6 A purchase-money security interest, as defined in section 9-103,
7 Uniform Commercial Code, in a vehicle is perfected against the
8 rights of judicial lien creditors and execution creditors on and
9 after the date the purchase-money security interest attaches.

10 (2) (3) Subject to subsection (1) subsections (1) and (2)
11 of this section, all liens, security agreements, and encumbrances
12 noted upon a certificate of title or an electronic certificate
13 of title record and all liens noted electronically as prescribed
14 in subsection (1) of this section shall take priority according
15 to the order of time in which the same are noted ~~thereon~~ by the
16 county clerk, designated county official, or department. Exposure
17 for sale of any vehicle by the owner thereof with the knowledge or
18 with the knowledge and consent of the holder of any lien, security
19 agreement, or encumbrance on such vehicle shall not render the
20 same void or ineffective as against the creditors of such owner
21 or holder of subsequent liens, security agreements, or encumbrances
22 upon such vehicle.

23 (3) (4) The holder of a security agreement, trust
24 receipt, conditional sales contract, or similar instrument,
25 upon presentation of such instrument to the department, if the

1 certificate of title was issued by the department, or to any
2 county clerk or designated county official, together with the
3 certificate of title and the fee prescribed for notation of
4 lien, may have a notation of such lien made on the face of such
5 certificate of title. The owner of a vehicle may present a valid
6 out-of-state certificate of title issued to such owner for such
7 vehicle with a notation of lien on such certificate of title and
8 the prescribed fee to the county clerk, designated county official,
9 or department and have the notation of lien made on the face of
10 the new certificate of title issued pursuant to section 60-144
11 without presenting a copy of the lien instrument. The county clerk
12 or designated county official or the department shall enter the
13 notation and the date thereof over the signature of such officer
14 the person making the notation and the official seal of the office.
15 If noted by a county clerk or designated county official, he or she
16 shall on that day notify the department which shall note the lien
17 on its records. The county clerk or designated county official or
18 the department shall also indicate by appropriate notation and on
19 such instrument itself the fact that such lien has been noted on
20 the certificate of title.

21 (4) (5) A transaction does not create a sale or a
22 security interest in a vehicle, other than an all-terrain vehicle
23 or a minibike, merely because it provides that the rental price
24 is 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) (6) The county clerk or designated county official
3 or the department, upon receipt of a lien instrument duly signed
4 by 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 (7) Beginning on the implementation date of the
21 electronic title and lien system, upon receipt of a subsequent
22 lien instrument duly signed by the owner in the manner prescribed
23 by law governing such lien instruments or a notice of lien filed
24 electronically, together with an application for notation of
25 the subsequent lien, the fee prescribed in section 60-154, and,

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

24 (6) (8) When a lien is discharged, the holder shall,
25 within fifteen days after payment is received, note a cancellation

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

25 Sec. 15. Section 60-165, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 60-165 (1) Any security interest in an all-terrain
3 vehicle or minibike perfected pursuant to article 9, Uniform
4 Commercial Code, before, on, or after January 1, 2004, shall
5 continue to be perfected until (a) the financing statement
6 perfecting such security interest is terminated or lapses in
7 the absence of the filing of a continuation statement pursuant to
8 article 9, Uniform Commercial Code, or (b) an all-terrain vehicle
9 or minibike certificate of title is issued and a notation of lien
10 is made as provided in section 60-164.

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

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

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

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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, a lienholder, at the owner's request,
15 may request the issuance of a printed certificate of title if the
16 owner of the vehicle relocates to another state or country or if
17 requested for any other purpose approved by the department. Upon
18 proof 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 Cumulative
23 Supplement, 2008, 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

1 bequest, order in bankruptcy, insolvency, replevin, or execution
2 sale or as provided in sections 30-24,125, 52-601.01 to 52-605,
3 60-1901 to 60-1911, and 60-2401 to 60-2411, (b) the engine of a
4 vehicle being replaced by another engine, (c) a vehicle being sold
5 to satisfy storage or repair charges, or (d) repossession being had
6 upon default in performance of the terms of a chattel mortgage,
7 trust receipt, conditional sales contract, or other like agreement,
8 the county clerk or designated county official of any county or
9 the department, if the last certificate of title was issued by
10 the department, upon the surrender of the prior certificate of
11 title or the manufacturer's or importer's certificate, or when
12 that is not possible, upon presentation of satisfactory proof of
13 ownership and right of possession to such vehicle, and upon payment
14 of the appropriate fee and the presentation of an application for
15 certificate of title, may issue to the applicant a certificate of
16 title thereto. If the prior certificate of title issued for such
17 vehicle provided for joint ownership with right of survivorship, a
18 new certificate of title shall be issued to a subsequent purchaser
19 upon the assignment of the prior certificate of title by the
20 surviving owner and presentation of satisfactory proof of death
21 of the deceased owner. Only an affidavit by the person or agent
22 of the person to whom possession of such vehicle has so passed,
23 setting forth facts entitling him or her to such possession and
24 ownership, together with a copy of the journal entry, court order,
25 or instrument upon which such claim of possession and ownership

1 is founded, shall be considered satisfactory proof of ownership
2 and right of possession, except that if the applicant cannot
3 produce such proof of ownership, he or she may submit to the
4 department such evidence as he or she may have, and the department
5 may thereupon, if it finds the evidence sufficient, issue the
6 certificate of title or authorize the county clerk or designated
7 county official to issue a certificate of title, as the case may
8 be.

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

15 Sec. 18. Section 60-168.01, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 60-168.01 The department, upon receipt of clear and
18 convincing evidence of a failure to note a required brand or
19 failure to note a lien on a certificate of title, shall notify the
20 holder of such certificate of title to deliver to the county clerk
21 or designated county official or the department, within fifteen
22 days after the date on the notice, such certificate of title to
23 permit the noting of such brand or lien. After notation, the county
24 clerk or designated county official or the department shall deliver
25 the corrected certificate of title to the holder as provided by

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1 section 60-152. If a holder fails to deliver a certificate of
2 title to the county clerk or designated county official or to
3 the department, within fifteen days after the date on the notice
4 for the purpose of noting such brand or lien on the certificate
5 of title, the department shall cancel the certificate of title.
6 This section does not apply when noting a lien in accordance with
7 subsection ~~(5)~~ (6) of section 60-164.

8 Sec. 19. Original sections 37-1201, 37-1211, 37-1277,
9 37-1279, 37-1282, 37-1283, 37-1287, and 37-1290, Reissue Revised
10 Statutes of Nebraska, and sections 60-101, 60-140, 60-147, 60-152,
11 60-164, 60-165, 60-166, and 60-168.01, Revised Statutes Cumulative
12 Supplement, 2008, are repealed.