

CHAPTER 5

(HB 197)

AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 186.190 is amended to read as follows:

- (1) (a) ***Except as provided for in paragraph (e) of this subsection***, when a motor vehicle that has been previously registered changes ownership, the registration plate shall ***not*** remain upon the motor vehicle, ***but shall be retained by the seller and may be transferred to another vehicle owned or leased by the seller in accordance with paragraph (b) or (c) of this subsection***~~[as a part of it until the expiration of the registration year]~~.
 - (b) ***An individual who sells a motor vehicle which has a valid registration plate may transfer that plate to another vehicle of the same classification at the time the individual transfers the vehicle. If the individual does not have a vehicle to transfer the plate to at the time the individual sells a vehicle, the individual may hold the registration plate for the period of registration. At any time during the period of registration, the individual shall notify the county clerk and transfer the plate to a vehicle of the same classification that he or she has obtained prior to operating that vehicle on a public highway. If the plate transfer occurs in the final month in which the existing registration is still valid, the individual shall be required to renew the registration on the newly acquired vehicle.***
 - (c) ***An individual who trades in a motor vehicle with a valid registration plate during the purchase of a motor vehicle from a licensed motor vehicle dealer shall remove the plate from the vehicle offered in trade. A photocopy of the valid certificate of registration shall be included with the application for title and registration for the purchased vehicle, and the plate shall be retained by the purchaser. The dealer shall equip the purchased vehicle with a temporary tag in accordance with Section 3 of this Act before the buyer may operate it on the highway. When the buyer receives a valid certificate of registration from the county clerk, the buyer shall remove the temporary tag and affix the registration plate to the vehicle.***
 - (d) ***All vehicle transfers and registration plate transfers shall be initiated within the fifteen (15) day period established under KRS 186.020 and 186A.070.***
 - (e) ***This subsection shall not apply to transfers between motor vehicle dealers licensed under KRS Chapter 190. A secured party who repossesses a vehicle shall comply with subsection (6) of Section 2 of this Act.***
- (2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle.~~[Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner.]~~ Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Department of Insurance pursuant to KRS Chapter 13A. On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of insurance shall be determined by the county clerk as provided in KRS 186A.042.
 - (3) Upon delivery of the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of two dollars (\$2), which shall be remitted to the Transportation Cabinet. If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of six dollars (\$6) for his services.
 - (4) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The

county clerk shall return the plate and motor vehicle registration receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar (\$1) for his services.

- (5) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.
- (6) The motor vehicle registration receipt issued by the clerk under this section shall contain information required by the Department of Vehicle Regulation.

➔Section 2. KRS 186.045 is amended to read as follows:

- (1) A perfected security interest in a motor vehicle that has been satisfied by payment in full shall be deemed to have been discharged if one (1) or both of the following events has occurred:
 - (a) The funds to pay in full and discharge the security interest have been provided to the secured party in the form of a cashier's check, certified check, or wire transfer; or
 - (b) The debt has been paid to a secured party who is no longer in existence or has failed to file the necessary documents to discharge the lien.
- (2) If payment in full has been made under subsection (1)(a) of this section, the discharge of the lien shall be made not later than ten (10) days from the receipt of the payment.
- (3) When a security interest has been paid in full and a termination statement or discharge has not been filed, the debtor may petition the Circuit Court in the county of the debtor's residence to order the discharge of the security interest. The debtor shall present written evidence to the Circuit Court that the security interest has been paid in full. If the evidence presented to the Circuit Court proves to the court's satisfaction that the security interest has been paid in full, the court shall order the county clerk to note the termination on the title and to remove the lien from the Automated Vehicle Information System (AVIS). A copy of the court's order shall immediately be sent to the county clerk in the county where the security interest was originally filed and the county clerk shall discharge the security interest and remove the lien information from AVIS in accordance with the provisions of this section.
- (4) Whenever a security interest has been discharged, other than by proceedings under Part 6 of Article 9 of KRS Chapter 355 or similar proceedings, the secured party shall deliver an authenticated termination statement in the manner required by KRS 355.9-513 and 186A.195 to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Except as provided in subsection (3) of this section, within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing a security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on the title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien statement was removed. Termination statements shall be retained in the clerk's files for a period of two (2) years subsequent to the date of filing a statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.
- (5) Upon presentation of an owner's title showing a security interest to the county clerk of a county where the termination statement was not delivered, the county clerk shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If a record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If a record of termination has not been entered into the automated system, the county clerk of the county other than where the termination statement was delivered shall not make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.

- (6) Whenever any secured party repossesses a vehicle titled in Kentucky, for which a security interest is in existence at the time of repossession, and disposes of the vehicle pursuant to the provisions of KRS Chapter 355, ~~the secured party~~ shall present, within fifteen (15) days after such disposition, *the vehicle's license plate, if the plate has not been retained by the previous owner*, an affidavit in a form prescribed by the department, *proof of notification of all interested parties pursuant to KRS 186A.190 and 355.9-611*, and a termination statement or proof that a termination statement has been filed. The new owner shall pay *to the county clerk* all applicable fees for titling and transferring the vehicle *into his or her name*~~to the county clerk~~. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, shall be shown on the title issued by the clerk unless the prior secured party has discharged the security interest in the clerk's office or proof of termination is submitted, if the prior security interest was discharged in another clerk's office.
- (7) Whenever any vehicle brought into Kentucky is required to be titled and the vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.
- (8) The fees provided for in this section are in addition to any state fee provided for by law.
- (9) Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.
- (10) The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner is responsible for ensuring that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180 shall be obtained from the clerk by the owner of the vehicle.
- (11) Security interests in vehicles sold to or owned by residents of other states shall be perfected in the state of the nonresident and repossession of the vehicle shall be taken pursuant to the laws of that state, unless:
- The vehicle is principally operated in Kentucky;
 - The vehicle is properly titled in Kentucky under KRS Chapter 186A; and
 - The security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

➔Section 3. KRS 186A.100 is amended to read as follows:

- (1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall~~, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser,~~ equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for **thirty (30)**~~sixty (60)~~ days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars (\$2), of which the clerk shall retain one dollar (\$1). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet. ***If the purchaser has not received his certificate of registration within thirty (30) days from the date of delivery, the purchaser may obtain another temporary tag from the dealer.***
- (2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.
- (3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

- (4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.
- (5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. A temporary tag authorized by this subsection shall be used for emergency or unusual purposes as determined by the clerk for the purpose of maintaining the owner's current registration. A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. A county clerk shall not issue a temporary tag authorized by this subsection unless the owner of the motor vehicle applying for the tag presents proof of motor vehicle insurance pursuant to KRS 304.39-080. On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of insurance shall be determined by the county clerk as provided in KRS 186A.042. A temporary tag issued pursuant to this subsection shall not be reissued by the county clerk for the same owner and same motor vehicle within one (1) year of issuance of a temporary tag.

➔Section 4. KRS 186.232 is amended to read as follows:

- (1) The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.
- (2) The county clerk shall not transfer the registration of any motor vehicle unless the transferee presents proof of insurance in compliance with KRS 304.39-080 and KRS 186.190.
- (3) If a notarized affidavit is required and available under KRS 138.450, the county clerk shall not transfer the registration of a motor vehicle unless the notarized affidavit attesting to the total and actual consideration paid or to be paid for the motor vehicle is presented to the clerk at the time of the transfer. If a notarized affidavit is required but is not available, the county clerk shall contact the Department of Revenue to determine the "retail price" of the vehicle and any taxes due prior to transferring the vehicle.
- (4) ***The county clerk shall not transfer title on a motor vehicle if there are delinquent ad valorem taxes on the motor vehicle.***

➔Section 5. KRS 186.165 is amended to read as follows:

- (1) As used in this section, "owner" means a person who has purchased or leased a motor vehicle that is registered under the provisions of KRS 186.050(1) or (3)(a).
- (2) The provisions of this chapter relating to special license plates to the contrary notwithstanding, if a vehicle has been issued a special license plate and the owner of the vehicle wishes to surrender the plate and exchange it for a different special license plate, the owner may, at the time he or she renews the vehicle's annual registration, exchange the special plate without being required to obtain a regular registration plate.
- (3) An owner requesting to exchange a special license plate shall be required to surrender the special license plate issued to the vehicle and the appropriate certificate of registration to the county clerk of the county where the person lives. Upon payment of the fee established in subsection (4) of this section, the county clerk shall immediately exchange the special license plate and issue a new special license plate and certificate of registration without placing further requirements upon the owner.
- (4) The fee to exchange a special license plate under this section shall be the fee charged under this chapter for the particular special license plate which is being requested.
- (5) ***If a motor vehicle that has been issued a special license plate is sold prior to the expiration of the registration, the owner may, pursuant to Section 1 of this Act, transfer the plate to another vehicle the owner has obtained.***

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) ***The ability to use the automated motor vehicle information system to carry out the functions of titling and registration of motor vehicles shall be restricted to county clerks and the Transportation Cabinet.***

- (2) *Any other access granted to the automated motor vehicle information system shall be for informational purposes only.*

➔ Section 7. This Act takes effect January 1, 2013.

Signed by Governor March 9, 2011.