

1 AN ACT relating to motor vehicle titles.

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

3 ➔Section 1. KRS 186A.190 is amended to read as follows:

- 4 (1) Except as provided in subsection (4) of this section and in KRS 355.9-311(4), the
5 perfection and discharge of a security interest in any property for which has been
6 issued a Kentucky certificate of title shall be by notation on the certificate of title.
7 Notation shall be made by the entry of information required by subsection ~~(Z)~~~~(6)~~
8 of this section into the Automated Vehicle Information System, and shall be deemed
9 to have occurred upon the entry. The notation of the security interest on the
10 certificate of title shall be in accordance with this chapter and shall remain effective
11 from the date on which the security interest is noted on the certificate of title for a
12 period of ten (10) years, or, in the case of a manufactured home, for a period of
13 thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The
14 filing of a continuation statement within the six (6) months preceding the expiration
15 of the initial period of a notation's effectiveness extends the expiration date for five
16 (5) additional years, commencing on the day the notation would have expired in the
17 absence of the filing. Succeeding continuation statements may be filed in the same
18 manner to continue the effectiveness of the initial notation.
- 19 (2) Except as provided in subsection (4) of this section, the notation of security interests
20 relating to property required to be titled in Kentucky through the county clerk shall
21 be done in the office of the county clerk of the county in which the debtor resides. If
22 the debtor is other than a natural person, the following provisions govern the
23 determination of the county of the debtor's residence:
- 24 (a) A partnership shall be deemed a resident of the county in which its principal
25 place of business in this state is located. If the debtor does not have a place of
26 business in this state, then the debtor shall be deemed a nonresident for
27 purposes of filing in this state;

- 1 (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS
2 362.2-102(14) shall be deemed a resident of the county in which its principal
3 place of business is located, as set forth in its certificate of limited partnership
4 or most recent amendment thereto filed pursuant to KRS Chapter 362 or
5 362.2-202. If such office is not located in this state, the debtor shall be
6 deemed a nonresident for purposes of filing in this state;
- 7 (c) A limited partnership not organized under the laws of this state and authorized
8 to do business in this state shall be deemed a resident of the county in which
9 the office of its process agent is located, as set forth in the designation or most
10 recent amendment thereto filed with the Secretary of State of the
11 Commonwealth of Kentucky;
- 12 (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited
13 liability company organized under KRS Chapter 275 shall be deemed a
14 resident of the county in which its registered office is located, as set forth in
15 its most recent corporate filing with the Secretary of State which officially
16 designates its current registered office;
- 17 (e) A corporation not organized under the laws of this state, but authorized to
18 transact or do business in this state under KRS Chapter 271B, 273, or 274, or
19 a limited liability company not organized under the laws of this state, but
20 authorized to transact business in this state under KRS Chapter 275, shall be
21 deemed a resident of the county in which its registered office is located, as set
22 forth in its most recent filing with the Secretary of State which officially
23 designates its current registered office;
- 24 (f) A cooperative corporation or association organized under KRS Chapter 272
25 shall be deemed a resident of the county in which its principal business is
26 transacted, as set forth in its articles of incorporation or most recent
27 amendment thereto filed with the Secretary of State of the Commonwealth of

1 Kentucky;

2 (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed
3 a resident of the county in which its principal office is located, as set forth in
4 its articles of incorporation or most recent amendment thereto filed with the
5 Secretary of State of the Commonwealth of Kentucky;

6 (h) A business trust organized under KRS Chapter 386 shall be deemed a resident
7 of the county in which its principal place of business is located, as evidenced
8 by the recordation of its declaration of trust in that county pursuant to KRS
9 Chapter 386;

10 (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be
11 deemed a resident of the county in which its principal place of business is
12 located, as set forth in its articles of incorporation or most recent amendment
13 thereto filed with the Secretary of State of the Commonwealth of Kentucky;
14 and

15 (j) Any other organization (defined in KRS 355.1-201) shall be deemed a
16 resident of the county in which its principal place of business in this state is
17 located, except that any limited liability company, limited liability partnership,
18 limited partnership, or corporation not organized under the laws of this state
19 and not authorized to transact or do business in this state shall be deemed a
20 nonresident for purposes of filing in this state. If the organization does not
21 have a place of business in this state, then it shall be deemed a nonresident for
22 purposes of filing in this state.

23 If the debtor does not reside in the Commonwealth, the notation of the security
24 interest shall be done in the office of the county clerk in which the property is
25 principally situated or operated. Notwithstanding the existence of any filed
26 financing statement under the provisions of KRS Chapter 355 relating to any
27 property registered or titled in Kentucky, the sole means of perfecting and

1 discharging a security interest in property for which a certificate of title is required
2 by this chapter is by notation on the property's certificate of title under the
3 provisions of this chapter or in accordance with the provisions of KRS 186.045(3).
4 In other respects the security interest is governed by the provisions of KRS Chapter
5 355.

6 (3) Except as provided in subsection (4) of this section, before ownership of property
7 subject to a lien evidenced by notation on the certificate of title may be transferred,
8 the transferor shall obtain the release of the prior liens in his name against the
9 property being transferred. Once a security interest has been noted on the owner's
10 title, a subsequent title shall not be issued by any county clerk free of the notation
11 unless the owner's title is presented to the clerk and it has been noted thereon that
12 the security interest has been discharged. If this requirement is met, information
13 relating to any security interest shown on the title as having been discharged may be
14 omitted from the title to be issued by the clerk. If information relating to the
15 discharge of a security interest is presented to a clerk under the provisions of KRS
16 186.045(3), the clerk shall discharge the security interest and remove the lien
17 information from AVIS.

18 (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall,
19 following inspection of the vehicle by the sheriff, to determine that the vehicle has
20 not been stolen, issue a new ownership document ~~[title]~~ to a vehicle, clear of all
21 prior liens, to a person after he or she provides to the county clerk an affidavit
22 devised by the Transportation Cabinet and completed by the person. The
23 ownership document presented as a result of this affidavit shall be in accordance
24 with subsection (5) of this section. In the affidavit, the affiant ~~[person]~~ shall attest
25 that:

- 26 (a) The affiant or the agent of the affiant ~~[He]~~ possesses the vehicle;
- 27 (b) ~~[A debt on the vehicle was owed him for more than thirty (30) days]~~ Before he

1 or she provided the notices required by paragraphs (c) and (d) of this
 2 subsection:~~[-]~~

3 1. A debt on the vehicle has been owed him or her for more than thirty
 4 (30) days;

5 2. Within thirty (30) days of payment of damages by an insurance
 6 company and receipt by the current owner of the motor vehicle or
 7 lienholder of damages pursuant to a claim settlement which required
 8 transfer of the vehicle to the insurance company, the insurance
 9 company has been unable to obtain:

10 a. A properly endorsed certificate of title on the vehicle from the
 11 current owner; and

12 b. If applicable, any lien satisfactions; or

13 3. a. The vehicle was voluntarily towed or transported pursuant to a
 14 request of the current owner or an insurance company that a
 15 motor vehicle dealer, licensed as a used motor vehicle dealer and
 16 motor vehicle auction dealer, take possession of and store the
 17 motor vehicle in the regular course of business; and

18 b. Within forty-five (45) days of taking possession of the motor
 19 vehicle, the motor vehicle dealer has not been paid storage fees
 20 by the current owner or lienholder and has not been provided
 21 both a properly endorsed certificate of title and if applicable, any
 22 lien satisfactions;

23 (c) More than thirty (30) ~~fourteen (14)~~ days before presenting the affidavit to
 24 the county clerk, the affiant ~~person~~ attempted to notify the owner of the
 25 vehicle and all known lienholders, including those noted on the title, by
 26 certified mail, return receipt requested, or by a nationally recognized courier
 27 service, of his or her name, address, and telephone number as well as his or

1 her intention to obtain a new title or salvage title, as applicable, clear of all
 2 prior liens, unless the owner or a lienholder objects~~objected~~ in writing;

3 (d) More than fourteen (14) days before presenting the affidavit to the county
 4 clerk, the affiant ~~person~~ had published a legal notice stating his or her
 5 intention to obtain title to the vehicle. The legal notice appeared at least twice
 6 in a seven (7) day period in a newspaper published, and with a statewide
 7 circulation, in Kentucky. The legal notice stated:

- 8 1. The affiant's ~~person's~~ name, address, and telephone number;
- 9 2. The owner's name;
- 10 3. The names of all known lienholders, including those noted on the title;
- 11 4. The vehicle's make, model, and year; and
- 12 5. The affiant's ~~person's~~ intention to obtain title to the vehicle unless the
 13 owner or a lienholder objects in writing within fourteen (14) days after
 14 the last publication of the legal notice; and

15 (e) Neither the owner nor a lienholder has objected in writing to the affiant's
 16 ~~person's~~ right to obtain title to the vehicle.

17 (5) (a) If subsection (4)(b)1. of this section applies, the new ownership document
 18 shall be a title;

19 (b) If subsection (4)(b)2. or 3. of this section applies, the new ownership
 20 document shall be a salvage title if the vehicle meets the requirements for a
 21 salvage title as stated in KRS 186A.520(1)(a); and

22 (c) If subsection (4)(b)2. or 3. of this section applies and the vehicle does not
 23 meet the requirements for a salvage title as stated in KRS 186A.520(1)(a),
 24 the new ownership document shall be a title.

25 (6) No more than two (2) active security interests may be noted upon a certificate of
 26 title.

27 (7)~~(6)~~ In noting a security interest upon a certificate of title, the county clerk shall

1 ensure that the certificate of title bears the lienholder's name, mailing address and
2 zip code, the date the lien was noted, the notation number, and the county in which
3 the security interest was noted. The clerk shall obtain the information required by
4 this subsection for notation upon the certificate of title from the title lien statement
5 described in KRS 186A.195~~[, or an equivalent out-of-state issued instrument,]~~ to be
6 provided to the county clerk by the secured party.

7 ~~(8)~~~~(7)~~ For all the costs incurred in the notation and discharge of a security interest on
8 the certificate of title, the county clerk shall receive the fee prescribed by KRS
9 64.012. The fee prescribed by this subsection shall be paid at the time of submittal
10 of the title lien statement described in KRS 186A.195.

11 ~~(9)~~~~(8)~~ A copy of the application, certified by the county clerk, indicating the lien will
12 be noted on the certificate of title shall be forwarded to the lienholder.

13 ➔Section 2. KRS 186A.195 is amended to read as follows:

14 (1) As used in this chapter, a title lien statement is a document to be submitted by the
15 secured party to the county clerk. Upon submission of the title lien statement, the
16 county clerk shall use the information contained therein to note the security interest
17 on the certificate of title, in accordance with KRS 186A.190~~(7)~~~~(6)~~. The county
18 clerk may make title lien statements available to the general public. However,
19 public availability of such statements is not necessary or effective to perfect a
20 security interest in property required to be registered or titled in accordance with
21 this chapter.

22 (2) If a title lien statement and the required fees accompany the application for first title
23 of any property in the name of an owner, the county clerk shall enter the
24 information required by KRS 186A.190~~(7)~~~~(6)~~ into the automated system so as to
25 produce a certificate of title in Frankfort bearing in addition to any other required
26 information, the information designated by KRS 186A.190~~(7)~~~~(6)~~. The clerk shall
27 thereby produce, in accordance with design of the automated system, a certificate of

1 registration, if required.

2 (3) If a title lien statement and the required fees are not received at the time of
3 application for first title of any property in the name of the owner due to owner's
4 residency in another county, or if the form prescribed by KRS 186A.060 indicates a
5 pending lien but the title lien statement does not accompany the application for title,
6 the county clerk shall enter into the Automated Vehicle Information System (AVIS)
7 the name and address of the lienholder and the county where the lien is to be noted
8 or that a lien is pending. The clerk shall indicate a title is not to be issued until the
9 lien has been noted and fees, according to KRS 186A.190, paid in the county of the
10 owner's residence or in thirty (30) days. The county clerk shall then issue the
11 registration. The county clerk in the county of the owner's residence shall, after
12 receiving the title lien statement and fees contained in KRS 186A.190, enter into the
13 Automated Vehicle Information System (AVIS) the date of lien notation and the
14 notation number, thus enabling the system to produce the title in Frankfort.

15 (4) Should a certificate of title be issued after the thirty (30) day period has expired
16 without the notation of a security interest thereon, or should there be no provision
17 made for a lien to be noted in the county of residence of the debtor within thirty (30)
18 days and the title issued within that time, the secured party shall request from the
19 debtor, and the debtor shall submit to the secured party, the certificate of title. The
20 secured party shall submit the certificate of title along with the title lien statement to
21 the county clerk of the county of the debtor's residence. The county clerk shall then
22 enter the information required by KRS 186A.190(Z)(~~6~~) into the Automated
23 Vehicle Information System (AVIS) and note on the certificate of title in the
24 appropriate section the information described in that section. Following the notation
25 of the appropriate information on the certificate of title, the county clerk shall return
26 the title to the debtor.

27 (5) The security interest noted on the certificate of title shall be deemed perfected at the

1 time the security interest attaches (KRS 355.9-203) if the secured party tenders the
2 required fees and submits a properly completed title lien statement and application
3 for first title or, in the case of property previously titled in the name of its debtor,
4 the certificate of title to the appropriate county clerk within thirty (30) days of
5 attachment. Otherwise, the security interest shall be deemed perfected at the time
6 that such fees are tendered and such documents are submitted to the appropriate
7 county clerk.

8 ➔Section 3. KRS 186A.200 is amended to read as follows:

- 9 (1) With respect to a vehicle previously titled in the name of its debtor, the secured
10 party shall, within thirty (30) days after execution of the security agreement, obtain
11 the current certificate of title in the name of the debtor, with no more than one (1)
12 prior lien indicated thereon, and present to the county clerk the certificate of title,
13 which the secured party shall have the right to obtain from the debtor, together with
14 the title lien statement and the required fees in KRS 186A.190 to the county clerk.
- 15 (2) For failure to present both the title and title lien statement within the time
16 prescribed by subsection (1) of this section, the secured party shall pay a penalty of
17 two dollars (\$2) to the county clerk as a prerequisite for noting the security interest
18 on the title.
- 19 (3) The county clerk shall enter the information required by KRS 186A.190(Z)(~~6~~) into
20 the automated system.
- 21 (4) The county clerk shall record upon the title in the appropriate section the
22 information designated by KRS 186A.190(Z)(~~6~~).