

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1566

Short Title: Temp. MV Lien Filing.

(Public)

Sponsors: Representatives Cole; and Fox.

Referred to: Judiciary III.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A PROCEDURE FOR CREATION OF A TEMPORARY LIEN ON A MOTOR VEHICLE WHEN A MANUFACTURER'S STATEMENT OF ORGIN OR AN EXISTING CERTIFICATE OF TITLE ON A MOTOR VEHICLE IS UNAVAILABLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-58 reads as rewritten:

"§ 20-58. Perfection by indication of security interest on certificate of title.

(a) Except as provided in G.S. 20-58.8, a security interest in a vehicle of a type for which a certificate of title is required shall be perfected only as hereinafter provided.

(1) If the vehicle is not registered in this State, the application for notation of a security interest shall be the application for certificate of title provided for in G.S. 20- 52.

(2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party. If there is an

1 existing certificate of title issued by this or any other jurisdiction in
2 the possession of a prior secured party, the application for notation of
3 the security interest shall in addition contain the name and address of
4 such prior secured party. An application for notation of a security
5 interest may be signed by the secured party instead of the debtor when
6 the application is accompanied by documentary evidence of the
7 applicant's security interest in that motor vehicle signed by the debtor
8 and by affidavit of the applicant stating the reason the debtor did not
9 sign the application. In the event the certificate cannot be obtained for
10 recordation of the security interest, when title remains in the name of
11 the debtor, the Division shall cancel the certificate and issue a new
12 certificate of title listing all the respective security interests.

13 (3) If the application for notation of security interest is made in
14 order to continue the perfection of a security interest perfected in
15 another jurisdiction, it may be signed by the secured party instead of
16 the debtor. Such application shall be accompanied by documentary
17 evidence of a perfected security interest. No such application shall be
18 valid unless an application for a certificate of title has been made in
19 North Carolina. The security interest perfected herein shall be subject
20 to the provisions set forth in G.S. 20-58.5.

21 (b) When a manufacturer's statement of origin or an existing certificate of title on a
22 motor vehicle is unavailable, a first lienholder or his designee may file a notarized copy
23 of an instrument creating and evidencing a security interest in the motor vehicle with the
24 Division of Motor Vehicles. A filing pursuant to this subsection shall constitute
25 constructive notice to all persons of the security interest in the motor vehicle described in
26 the filing. The constructive notice shall be effective from the date of the filing if the
27 filing is made within 20 days after the date of the security agreement. The constructive
28 notice shall date from the date of the filing with the Division if it is made more than 20
29 days after the date of the security agreement. The notation of a security interest created
30 under this subsection shall automatically expire 180 days after the date of the creation of
31 the security interest, or upon perfection of the security interest as provided in G.S. 20-
32 58A. A security interest notation made under this subsection and then later perfected
33 under subsection (a) of this section shall be presumed to have been perfected on the date
34 of the earlier filing. The Division may charge a fee not to exceed ten dollars (\$10.00) for
35 each notation of security interest filed pursuant to this subsection."

36 Section 2. This act becomes effective December 1, 2000.