

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 4046

By: McCall

6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.  
8 2011, Section 1110, as amended by Section 1, Chapter  
224, O.S.L. 2015 (47 O.S. Supp. 2019, Section 1110),  
9 which relates to perfection of security interest;  
prohibiting certain title transfers; and providing an  
effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 47 O.S. 2011, Section 1110, as  
15 amended by Section 1, Chapter 224, O.S.L. 2015 (47 O.S. Supp. 2019,  
16 Section 1110), is amended to read as follows:

17 Section 1110. A. 1. Except for a security interest in  
18 vehicles held by a dealer for sale or lease, a vehicle registered by  
19 a federally recognized Indian tribe as provided in subsection G of  
20 this section, and a vehicle being registered in this state which was  
21 previously registered in another state and which title contains the  
22 name of a secured party on the face of the other state certificate  
23 or title, and except as otherwise provided in subsection B of  
24 Section 1105 of this title, a security interest in a vehicle as to

1 which a certificate of title may be properly issued by the Oklahoma  
2 Tax Commission shall be perfected only when a lien entry form, and  
3 the existing certificate of title, if any, or application for a  
4 certificate of title and manufacturer's certificate of origin  
5 containing the name and address of the secured party and the date of  
6 the security agreement and the required fee are delivered to the Tax  
7 Commission or to a motor license agent. As used in this section,  
8 the term "dealer" shall be defined as provided in Section 1-112 of  
9 this title and the term "security interest" shall be defined as  
10 provided in paragraph (35) of Section 1-201 of Title 12A of the  
11 Oklahoma Statutes. When a vehicle title is presented to a motor  
12 license agent for transferring or registering and the documents  
13 reflect a lien holder, the motor license agent shall perfect the  
14 lien pursuant to subsection G of Section 1105 of this title. For  
15 the purposes of this section, the term "vehicle" shall not include  
16 special mobilized machinery, machinery used in highway construction  
17 or road material construction and rubber-tired road construction  
18 vehicles including rubber-tired cranes. The filing and duration of  
19 perfection of a security interest, pursuant to the provisions of  
20 Title 12A of the Oklahoma Statutes, including, but not limited to,  
21 Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be  
22 applicable to perfection of security interests in vehicles as to  
23 which a certificate of title may be properly issued by the Tax  
24 Commission, except as to vehicles held by a dealer for sale or lease

1 and except as provided in subsection D of this section. In all  
2 other respects Title 12A of the Oklahoma Statutes shall be  
3 applicable to such security interests in vehicles as to which a  
4 certificate of title may be properly issued by the Tax Commission.

5 2. Whenever a person creates a security interest in a vehicle,  
6 the person shall surrender to the secured party the certificate of  
7 title or the signed application for a new certificate of title, on  
8 the form prescribed by the Tax Commission, and the manufacturer's  
9 certificate of origin. The secured party shall deliver the lien  
10 entry form and the required lien filing fee within twenty-five (25)  
11 days as provided hereafter with certificate of title or the  
12 application for certificate of title and the manufacturer's  
13 certificate of origin to the Tax Commission or to a motor license  
14 agent. If the lien entry form, the lien filing fee and the  
15 certificate of title or application for certificate of title and the  
16 manufacturer's certificate of origin are delivered to the Tax  
17 Commission or to a motor license agent within twenty-five (25) days  
18 after the date of the lien entry form, perfection of the security  
19 interest shall begin from the date of the execution of the lien  
20 entry form, but otherwise, perfection of the security interest shall  
21 begin from the date of the delivery to the Tax Commission or to a  
22 motor license agent.

23 3. a. For each security interest recorded on a certificate  
24 of title, or manufacturer's certificate of origin,

1       such person shall pay a fee of Ten Dollars (\$10.00),  
2       which shall be in addition to other fees provided for  
3       in the Oklahoma Vehicle License and Registration Act.  
4       Upon the receipt of the lien entry form and the  
5       required fees with either the certificate of title or  
6       an application for certificate of title and  
7       manufacturer's certificate of origin, a motor license  
8       agent shall, by placement of a clearly distinguishing  
9       mark, record the date and number shown in a  
10      conspicuous place, on each of these instruments. Of  
11      the ten-dollar fee, the motor license agent shall  
12      retain Two Dollars (\$2.00) for recording the security  
13      interest lien.

- 14      b. It shall be unlawful for any person to solicit, accept  
15      or receive any gratuity or compensation for acting as  
16      a messenger and for acting as the agent or  
17      representative of another person in applying for the  
18      recording of a security interest or for the  
19      registration of a motor vehicle and obtaining the  
20      license plates or for the issuance of a certificate of  
21      title therefor unless the Tax Commission has appointed  
22      and approved the person to perform such acts; and  
23      before acting as a messenger, any such person shall  
24      furnish to the Tax Commission a surety bond in such

1 amount as the Tax Commission shall determine  
2 appropriate.

3 4. The certificate of title or the application for certificate  
4 of title and manufacturer's certificate of origin with the record of  
5 the date of receipt clearly marked thereon shall be returned to the  
6 debtor together with a notice that the debtor is required to  
7 register and pay all additional fees and taxes due within thirty  
8 (30) days from the date of purchase of the vehicle.

9 5. Any person creating a security interest in a vehicle that  
10 has been previously registered in the debtor's name and on which all  
11 taxes due the state have been paid shall surrender the certificate  
12 of ownership to the secured party. The secured party shall have the  
13 duty to record the security interest as provided in this section and  
14 shall, at the same time, obtain a new certificate of title which  
15 shall show the secured interest on the face of the certificate of  
16 title.

17 6. The lien entry form with the date and assigned number  
18 thereof clearly marked thereon shall be returned to the secured  
19 party. If the lien entry form is received and authenticated, as  
20 herein provided, by a motor license agent, the agent shall make a  
21 report thereof to the Tax Commission upon the forms and in the  
22 manner as may be prescribed by the Tax Commission.  
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1        7. The Tax Commission shall have the duty to record the lien  
2 upon the face of the certificate of title issued at the time of  
3 registering and paying all fees and taxes due on the vehicle.

4        8. When there is an active lien from a commercial lender in  
5 place on a vehicle, motor license agents shall be prohibited from  
6 transferring the certificate of title on that vehicle until the lien  
7 is satisfied.

8        B. 1. A secured party shall, within seven (7) business days  
9 after the satisfaction of the security interest, furnish directly or  
10 by mail a release of a security interest to the Tax Commission and  
11 mail a copy thereof to the last-known address of the debtor. If the  
12 security interest has been satisfied by payment from a licensed used  
13 motor vehicle dealer to whom the motor vehicle has been transferred,  
14 the secured party shall also, within seven (7) business days after  
15 such satisfaction, mail an additional copy of the release to the  
16 dealer. If the secured party fails to furnish the release as  
17 required, the secured party shall be liable to the debtor for a  
18 penalty of One Hundred Dollars (\$100.00). Following the seven (7)  
19 business days after satisfaction of the lien and upon receipt by the  
20 lienholder of written communication demanding the release of the  
21 lien, thereafter the penalty shall increase to One Hundred Dollars  
22 (\$100.00) per day for each additional day beyond seven (7) business  
23 days until accumulating to One Thousand Five Hundred Dollars  
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1 (\$1,500.00) or the value of the vehicle, whichever is less, and, in  
2 addition, any loss caused to the debtor by such failure.

3 2. Upon release of a security interest the owner may obtain a  
4 new certificate of title omitting reference to the security  
5 interest, by submitting to the Tax Commission or to a motor license  
6 agent:

- 7 a. a release signed by the secured party, an application  
8 for new certificate of title and the proper fees, or
- 9 b. by submitting to the Tax Commission or the motor  
10 license agent an affidavit, supported by such  
11 documentation as the Tax Commission may require, by  
12 the owner on a form prescribed by the Tax Commission  
13 stating that the security interest has been satisfied  
14 and stating the reasons why a release cannot be  
15 obtained, an application for a new certificate of  
16 title and the proper fees.

17 Upon receiving such affidavit that the security interest has been  
18 satisfied, the Tax Commission shall issue a new certificate of title  
19 eliminating the satisfied security interest and the name and address  
20 of the secured parties who have been paid and satisfied. The Tax  
21 Commission shall accept a release of a security interest in any form  
22 that identifies the debtor, the secured party, and the vehicle, and  
23 contains the signature of the secured party. The Tax Commission  
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1 shall not require any particular form for the release of a security  
2 interest.

3 The words "security interest" when used in the Oklahoma Vehicle  
4 License and Registration Act do not include liens dependent upon  
5 possession.

6 C. The Tax Commission shall file and index certificates of  
7 title so that at all times it will be possible to trace a  
8 certificate of title to the vehicle designated therein, identify the  
9 lien entry form, and the names and addresses of secured parties, or  
10 their assignees, so that all or any part of such information may be  
11 made readily available to those who make legitimate inquiry of the  
12 Tax Commission as to the existence or nonexistence of security  
13 interest in the vehicle.

14 D. 1. Any security interest in a vehicle properly perfected  
15 prior to July 1, 1979, may be continued as to its effectiveness or  
16 duration as provided by Sections ~~1-9-501~~ 1-9-510 and 1-9-515 of  
17 Title 12A of the Oklahoma Statutes, or may be terminated, assigned  
18 or released as provided by Sections 1-9-512, 1-9-513 and 1-9-514 of  
19 Title 12A of the Oklahoma Statutes, as fully as if this section had  
20 not been enacted, or, at the option of the secured party, may also  
21 be perfected under this section, and, if so perfected, the time of  
22 perfection under this section shall be the date the security  
23 interest was originally perfected under the prior law.



1        2. Upon request of the secured party, the debtor or any other  
2 holder of the certificate of title shall surrender the certificate  
3 of title to the secured party and shall do such other acts as may be  
4 required to perfect the security interest under this section.

5        E. If a manufactured home is permanently affixed to real  
6 estate, the original document of title may be surrendered to the Tax  
7 Commission or a motor license agent for cancellation. When the  
8 document of title is surrendered, the owner shall provide the legal  
9 description or the appropriate tract or parcel number of the real  
10 estate and other information as may be required on a form provided  
11 by the Tax Commission. The Tax Commission may not cancel a document  
12 of title if a lien has been registered or recorded. The Tax  
13 Commission or motor license agent shall notify the owner and any  
14 lienholder that the title has been surrendered to the Tax Commission  
15 and that the Tax Commission may not cancel the title until the lien  
16 is released. Such notification shall include a description of the  
17 lien and such notification to the owner shall be accompanied by the  
18 return of title surrendered. Permanent attachment to real estate  
19 does not affect the validity of a lien recorded or registered with  
20 the Tax Commission before the document of title is ~~cancelled~~  
21 canceled pursuant to this section. The rights of a prior lienholder  
22 pursuant to a security agreement or the provisions of a credit  
23 transaction and the rights of the state pursuant to a tax lien are  
24 preserved. The Tax Commission or motor license agent shall forward

1 the information to the county assessor of the county where the real  
2 estate is located and indicate whether the original document of  
3 title has been canceled. A fee of Five Dollars (\$5.00) shall  
4 accompany the application for cancellation of title. When the fee  
5 is paid by a person making an application directly with the Tax  
6 Commission, the fee shall be deposited in the Oklahoma Tax  
7 Commission Revolving Fund. A fee paid to a motor license agent  
8 shall be retained by the agent. The owner of a manufactured home  
9 upon which the document of title has been properly surrendered, may  
10 apply to the Tax Commission for issuance of a new original  
11 certificate of title upon submission of: ~~(1) an~~

12 1. An attestation from the homeowner indicating ownership of  
13 the manufactured home and the nonexistence of any security interest  
14 or lien of record in the manufactured home; and ~~(2) a~~

15 2. A title opinion by a licensed attorney, determining that the  
16 owner of the manufactured home has marketable title to the real  
17 property upon which the manufactured home is located and that no  
18 documents filed of record in the county clerk's office concerning  
19 the real property contain a mortgage, recorded financial statement,  
20 judgment, or lien of record. Persons or entities to whom the title  
21 opinion is addressed may rely on the title opinion. A security  
22 interest in a manufactured home perfected pursuant to this section  
23 shall have priority over a conflicting interest of a mortgagee or  
24 other lien encumbrancer, or the owner of the real property upon

1 which the manufactured home became affixed or otherwise permanently  
2 attached. The holder of the security interest in the manufactured  
3 home, upon default, may remove the manufactured home from such real  
4 property. The holder of the security interest in the manufactured  
5 home shall reimburse the owner of the real property who is not the  
6 debtor and who has not otherwise agreed to access the real property  
7 for the cost of repair of any physical injury to the real property,  
8 but shall not be liable for any diminution in value to the real  
9 property caused by the removal of the manufactured home, trespass,  
10 or any other damages caused by the removal. The debtor shall notify  
11 the holder of the security interest in the manufactured home of the  
12 street address, if any, and the legal description of the real  
13 property upon which the manufactured home is affixed or otherwise  
14 permanently attached and shall sign such other documents, including  
15 any appropriate mortgage, as may reasonably be requested by the  
16 holder of such security interest.

17 F. In the case of motor vehicles or trailers, notwithstanding  
18 any other provision of law, a transaction does not create a sale or  
19 security interest merely because it provides that the rental price  
20 is permitted or required to be adjusted under the agreement either  
21 upward or downward by reference to the amount realized upon sale or  
22 other disposition of the motor vehicle or trailer.

23 G. A security interest in vehicles registered by a federally  
24 recognized Indian tribe shall be deemed valid under Oklahoma law if

1 validly perfected under the applicable tribal law and the lien is  
2 noted on the face of the tribal certificate of title.

3 SECTION 2. This act shall become effective November 1, 2020.  
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