

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1712

By: Rep. Mahony

"AN ACT TO PERMIT A LIEN HOLDER ON A MOTOR VEHICLE TO RECORD THE LIEN ON THE MANUFACTURER'S STATEMENT OF ORIGIN OR ON EXISTING CERTIFICATE OF TITLE AND FILE A COPY OF THE INSTRUMENT CREATING AND EVIDENCING THE LIEN WITH THE REVENUE DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION AND THEREBY PERFECT THE LIEN; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. (a) The filing and issuance of a new Certificate of Title as provided in Act 142 of 1949, as amended, shall constitute constructive notice of all liens and encumbrances against the vehicle described therein to creditors of the owner, to subsequent purchasers and encumbrancers except such liens as may be authorized by law dependent upon possession. In the event the documents referred to in Section 60 of Act 142 of 1949, as amended, are received and filed in the Revenue Division of the Department of Finance and Administration within ten (10) days after the date said documents were executed, the constructive notice shall date from the time of the execution of said documents. Otherwise, constructive notice shall date from the time of receipt and filing of such documents by the Department as shown by its endorsement thereon.

(b) A lienholder may, at his option, record the lien on the manufacturer's statement of origin or on an existing Certificate of Title. In addition, the lienholder must file with the Revenue Division of the Department of Finance and Administration a certified copy of the instrument creating and evidencing such lien or encumbrance, and shall remit therewith a fee of one dollar (\$1.00) for each lien to be filed, which such recording and filing shall constitute constructive notice of such lien against the vehicle described therein to creditors of the owner, subsequent purchasers and

encumbrancers, except such liens as are by law dependent upon possession. A photocopy of the manufacturer's statement of origin or of such existing certificate of title showing the lien recorded thereon and certified as true and correct copy by the party recording the lien shall be sufficient evidence of such recording.

The constructive notice shall be effective from the date of the execution of the instrument creating and evidencing the lien or encumbrance if the same is filed as authorized herein within ten (10) days after the date of the execution thereof. If the instrument is filed more than ten (10) days after the execution thereof, the constructive notice shall date from the time of the filing of the instrument. Provided, that the filing of a lien under the provisions of this Act by the lien holder and the payment of the fee therefor shall in no way relieve any person of the obligation of paying the fee now required by law for filing a lien to be evidenced on a Certificate of Title of a motor vehicle.

(c) The methods provided in this Act of giving constructive notice of a lien or encumbrance upon a registered vehicle shall be exclusive except as to liens dependent upon possession, and any said lien or encumbrance or title retention instrument filed as herein provided, and any documents evidencing the same, are hereby exempted from the provisions of law which otherwise require or relate to the recording or filing of instruments creating or evidencing title retention or other liens or encumbrances upon vehicles of the types subject to registration hereunder.

SECTION 2. Act 326 of 1981, the same being Arkansas Statute 75-161, and all other laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. EMERGENCY. It is hereby found and determined by the General Assembly that the present law pertaining to the filing of motor vehicle liens with the Revenue Division is of questionable validity and inadequate, and that this Act is immediately necessary to provide an equitable and valid motor vehicle lien filing law. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

