

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/8/01, S4/9/01

A Bill

HOUSE BILL 1285

5 By: Representatives Duggar, Gipson, Fite, Rodgers, Milum, Nichols, Hendren, Seawel
6 By: *Senator Miller*
7

For An Act To Be Entitled

10 AN ACT TO AMEND ARKANSAS CODE 18-45-202
11 CONCERNING THE PRIORITY OF LIENS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 AN ACT TO AMEND ARKANSAS CODE 18-45-202
15 CONCERNING THE PRIORITY OF LIENS.
16
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18

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

20
21 SECTION 1. Arkansas Code 18-45-202 is amended to read as follows:
22 18-45-202. Priority of lien.

23 (a) The lien provided for in this subchapter shall take precedence
24 over, and be superior to, any mortgage or other obligation attaching against
25 the property in all cases where the holder of the mortgage or other obligation
26 shall permit the property to remain in the possession of and be used by the
27 person owing and bound for the amount thereof.

28 (b)(1) The lien provided for in this subchapter shall be subject to the
29 perfected lien of a financial institution or vendor of automobiles, trucks,
30 tractors, and all other motor propelled conveyances an independent financing
31 entity for any claim for the balance of purchase money due thereon on any
32 automobile, truck, tractor, or other motor-propelled conveyance.

33 (2) For purposes of this subsection (b), an "independent
34 financing entity" means any state or national bank, state or federally
35 chartered credit union, state or federally chartered savings institution, or
36 any finance company affiliated with a vehicle manufacturer which in the

1 regular course of its business extends credit for the purchase of no fewer
 2 than two hundred fifty (250) new or used vehicles annually and any vendor of
 3 tractors and farm implements which finances tractors or farm implements.

4 (c) The lien provided for in this subchapter shall not take precedence
 5 over a bona fide purchaser for value of any automobile, truck, tractor, and
 6 other motor-propelled conveyances without either actual or constructive
 7 notice.

8 (d)(1) Subject to subsection (b) of this section, any mechanic, body
 9 shop or towing service properly doing business in this state shall have a
 10 possessory lien on any automobile, truck, tractor or other motor-propelled
 11 conveyance and its contents until payment for storage or services performed is
 12 tendered.

13 (2) If the debt is not paid within forty-five (45) days, the
 14 automobile, truck, tractor or other motor-propelled conveyance and its
 15 contents may be considered abandoned by the mechanic, body shop or towing
 16 service, and the automobile, truck, tractor or other motor-propelled
 17 conveyance and its contents may be sold at public sale to the highest bidder
 18 following the procedures to sell abandoned vehicles in § 27-50-1101.

19 (3) No mechanic or body shop shall be entitled to any storage fee
 20 except for the period of time beginning after notice to the owner and
 21 lienholders as prescribed in § 27-50-1101.

22
 23 SECTION 2. EMERGENCY CLAUSE. It is hereby found and determined
 24 by the Eighty-third General Assembly that confusion continues to exist
 25 regarding the priority of the possessory lien that mechanics, body shops and
 26 towing companies obtain on automobiles, trucks, tractors or other self-
 27 propelled conveyances and their ability to sell those vehicles in satisfaction
 28 of the debt owed to them by the owner. Therefore, an emergency is declared to
 29 exist and this act being immediately necessary for the preservation of the
 30 public peace, health and safety shall become effective on the date of its
 31 approval by the Governor. If the bill is neither approved nor vetoed by the
 32 Governor, it shall become effective on the expiration of the period of time
 33 during which the Governor may veto the bill. If the bill is vetoed by the
 34 Governor and the veto is overridden, it shall become effective on the date the
 35 last house overrides the veto..

36 /s/ Duggar, et al.