

## **Part 6**

### **Liens and Security Interests**

#### **41-1a-601 Lien validity -- Security interest.**

- (1) Except as provided under Subsection (2) or (3), a lien upon a vehicle, vessel, or outboard motor, except a lien dependent upon possession, is not valid against the creditors of an owner acquiring a lien by levy or attachment, or subsequent purchasers, or encumbrancers without notice until Sections 41-1a-602 through 41-1a-606 have been complied with.
- (2) Security interests in inventory consisting in part of vehicles subject to registration under this chapter, that are held for sale by a person in the business of selling goods of that kind, shall be perfected under Section 70A-9a-310, except that:
  - (a) buyers in the ordinary course of business, as defined in Section 70A-1a-201, take free of the security interests as provided in Section 70A-9a-320; and
  - (b) security interests of persons extending credit to buyers in the ordinary course of business, as defined in Section 70A-1a-201, take free of the security interests as provided in Section 70A-9a-320.
- (3) Security interests in inventory consisting in part of vehicles subject to registration under this chapter, which are held for sale by a person in the business of selling goods of that kind, shall be perfected under Section 70A-9a-310, except that a lienholder with a security interest noted on the title shall have priority unless the lienholder has been paid in full in accordance with Section 41-3-402.

Amended by Chapter 342, 2010 General Session

#### **41-1a-602 Application for original registration.**

- (1)
  - (a) If a vehicle is of a type subject to registration but has not been registered and no certificate of title has been issued, or if the vehicle has been registered or titled in another state or country, the owner shall file an application in the form for an original registration and issuance of an original certificate of title.
  - (b) If the vehicle ownership has changed, the owner shall file an application in the form for an original certificate of title.
- (2) Each application shall be accompanied by all applicable taxes and fees under Part 12, Fee and Tax Requirements.

Renumbered and Amended by Chapter 1, 1992 General Session

Amended by Chapter 218, 1992 General Session

#### **41-1a-603 Issuance of new certificate of title -- Lienholder.**

- (1) Upon receipt of a title application the division shall file the application, and when satisfied as to the authenticity of the application, shall issue a new certificate of title in usual form, giving the name of the owner and a statement of one lien or encumbrance, if any, certified to the division as existing against the vehicle, vessel, or outboard motor.
- (2) If a certificate of title has been issued, and the same lienholder as shown by the records of the division only grants additional funds to the same owner as shown by the records of the division, no further recording is required and no subsequent certificate of title need be applied for or

issued, if the original certificate or valid duplicate has remained in possession of the lienholder and the lien has not been released and the certificate has not been delivered to the owner.

Renumbered and Amended by Chapter 1, 1992 General Session  
Amended by Chapter 218, 1992 General Session

**41-1a-604 Filing effective to give notice of liens.**

The filing and the issuance of a new certificate of title under Sections 41-1a-602 and 41-1a-603 constitute constructive notice of all liens and encumbrances against the vehicle, vessel, and outboard motor to creditors of the owner, to a person financing the inventory of a motor vehicle dealer that sells or offers the vehicle for sale, and to subsequent purchasers and encumbrancers.

Amended by Chapter 342, 2010 General Session

**41-1a-605 Constructive notice.**

- (1) If a person files an application in the form for an original certificate of title in accordance with Section 41-1a-602 within 30 days after the owner receives a delivery of the vehicle, vessel, or outboard motor, constructive notice dates from the time of the execution of the document creating the security interest, and the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise after the time of execution of the document creating the security interest.
- (2) If a person files an application in the form for an original certificate of title pursuant to Section 41-1a-602 after 30 days after the owner receives delivery of the vehicle, vessel, or outboard motor, constructive notice dates from the time of filing of the document creating the security interest, and the security interest takes priority over the rights of a buyer, lessee, or lien creditor as of the time of filing.
- (3) If a person relocates a motor vehicle within the state with a title issued by another state bearing a lien, the rights of the lienholder are perfected in accordance with the law of the state issuing the title.

Repealed and Re-enacted by Chapter 342, 2010 General Session

**41-1a-606 Method of giving notice -- Exceptions.**

The method provided in Sections 41-1a-602 through 41-1a-605, for giving notice of a lien or encumbrance upon a registered vehicle is exclusive except for liens dependent upon possession and any lien or encumbrance filed as provided under this chapter, which are exempt from the provisions of Section 70A-9a-311, and other provisions of law that otherwise require or relate to the recording or filing of instruments creating or evidencing title retention or other liens or encumbrances upon vehicles of a type subject to registration under this chapter.

Amended by Chapter 342, 2010 General Session

**41-1a-607 Assignment by lienholder.**

- (1)
  - (a) Any person holding a lien or encumbrance upon a vehicle, vessel, or outboard motor, other than a lien dependent solely upon possession, may assign his title or interest in or to the vehicle, vessel, or outboard motor to a person other than the owner without the consent of

and without affecting the interest of the owner or the registration of the vehicle, vessel, or outboard motor.

- (b) If assignment of the lien or encumbrance in any way modifies or affects the owner's repayment agreement, the lien or encumbrance holder shall give to the owner a written notice of the assignment.
- (2) Upon request to the division and upon receipt of a certificate of title assigned by the holder of a lien or encumbrance shown on it and giving the name and address of the assignee, accompanied by the fee provided by law, the division shall issue a new certificate of title.

Renumbered and Amended by Chapter 1, 1992 General Session  
Amended by Chapter 218, 1992 General Session

**41-1a-608 Release by lienholder to owner.**

- (1) A person holding a lien or encumbrance as shown upon a certificate of title upon a vehicle or vessel may release the lien or encumbrance or assign his interest to the owner without affecting the registration of the vehicle or vessel.
- (2) The division shall issue a new certificate of title without a lien previously recorded upon receiving:
  - (a) a certificate of title:
    - (i) upon which a lienholder has released or assigned his interest to the owner; or
    - (ii) not so endorsed but accompanied by a legal release from a lienholder of his interest in or to a vehicle, vessel, or outboard motor;
  - (b) an application properly completed; and
  - (c) the proper fee.

Renumbered and Amended by Chapter 1, 1992 General Session  
Amended by Chapter 218, 1992 General Session

**41-1a-609 Terminal rental adjustment clauses.**

- (1) As used in this section, "terminal rental adjustment clause" means a provision of an agreement that permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of the property.
- (2) Notwithstanding any other provision of law, a motor vehicle or trailer lease agreement that is subject to a terminal rental adjustment clause does not create a sale or security interest.
- (3) The provisions of this section do not affect:
  - (a) the rights and obligations of a valid security interest under this chapter; or
  - (b) the calculation of sales and use tax payable under Title 59, Chapter 12, Sales and Use Tax Act.

Enacted by Chapter 266, 2003 General Session