

HB 2099

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Com. Sub. for
HOUSE BILL No. 2099

(By Delegates FAURIS, BEAUNE AND KELLEY)



Passed MARCH 11, 1995

In Effect 90 DAYS FROM Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2099

(BY DELEGATES FARRIS, BEANE AND KELLEY)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three and five, article four-a, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to modifying the method by which liens may be perfected against vehicles held as inventory by a registered dealer holding title by assignment; providing for notice to purchasers for value or lien creditors; providing for notice to state and federal governmental agencies, creditors and purchasers; exceptions; and making certain technical revisions.

Be it enacted by the Legislature of West Virginia:

That sections two, three and five, article four-a, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE SHOWN ON CERTIFICATE OF TITLE; NOTICE TO CREDITORS AND PURCHASERS.

§17A-4A-2. Liens and encumbrances subsequently created.

- 1 (a) Liens or encumbrances placed on vehicles by the
- 2 voluntary act of the owner after the original issue of title

3 to be properly recorded must be shown on the certificate
4 of title. In such cases, the owner or lienholder shall file
5 application with the department on a blank furnished for
6 that purpose, setting forth the lien or liens and such infor-
7 mation and evidence of the lien in connection therewith as
8 the department may deem necessary. Such information
9 shall include the name and address of the lienholder, the
10 kind of and nature of the lien, the date thereof, and the
11 amount thereby secured. However, only the name and
12 address of the lienholder shall be endorsed on the title
13 certificate with the endorsement of the fact of such lien as
14 hereinafter provided. The department, if satisfied that it is
15 proper that the same be recorded, and upon surrender of
16 the certificate of title covering the vehicle, shall thereupon
17 issue a new certificate of title, showing the liens or encum-
18 brances in the order of their filing being according to the
19 date, hour and minute of receipt by the department of the
20 application for same. For the purpose of recording a
21 subsequent lien on a certificate of title, the subsequent
22 lienholder shall make a written request upon the lienhold-
23 er in possession of the certificate of title, accompanied by
24 proof of the existence of the subsequent lien, stating his
25 need to have possession of the certificate of title for the
26 purpose of having his lien recorded thereon by the depart-
27 ment of motor vehicles. Thereupon, the lienholder in
28 possession of the certificate shall within a reasonable time,
29 not to exceed ten days from the receipt of said written
30 request, deliver the certificate of title to the requesting
31 subsequent lienholder.

32 Upon delivery of the certificate of title, the subsequent
33 lienholder shall immediately forward it and the
34 lienholder's own application to the department of motor
35 vehicles for the filing of the lien and for the recording of
36 the same on the certificate of title. Upon issuing the new
37 certificate, the department shall thereupon send or deliver
38 it to the holder of the first lien.

39 (b) The provisions of subsection (a) of this section
40 shall not apply to vehicles held as inventory for sale by a
41 registered dealer holding title by assignment entered upon
42 a certificate of title. Any lien or encumbrance placed on
43 such vehicles by the voluntary act of the owner shall be

44 created and perfected in accordance with the provisions of
45 article nine, chapter forty-six of this code.

§17A-4A-3. Notice of lien; noninventory lien created by voluntary act of the owner not shown on certificate of title void as to subsequent purchasers and lien creditors; exceptions.

1 (a) A certificate of title, when issued by the depart-
2 ment showing a lien or encumbrance, shall be deemed
3 from and after the filing with the department of the appli-
4 cation therefor adequate notice to the state and its agen-
5 cies, boards and commissions, to the United States govern-
6 ment and its agencies, boards and commissions, to credi-
7 tors and to purchasers that a lien against the vehicle exists
8 and the recording of such reservation of title, lien or en-
9 cumbrance in the county wherein the purchaser or debtor
10 resides or elsewhere is not necessary and shall not be re-
11 quired or have any effect. Notwithstanding any other
12 provision of this code to the contrary, and subject to the
13 provisions of subsection (b) of this section and of section
14 four of this article, any lien or encumbrance placed upon
15 a vehicle by the voluntary act of the owner but not shown
16 on such certificate of title shall be void as to any purchaser
17 for value or lien creditor, who, in either case, without no-
18 tice of such lien or encumbrance, purchases such vehicle
19 or acquires by attachment, levy or otherwise a lien there-
20 upon.

21 (b) The creation and perfection of a lien against a
22 vehicle held as inventory for sale by a registered dealer
23 holding title by assignment in accordance with the provi-
24 sions of article nine, chapter forty-six of this code shall be
25 deemed adequate notice to the state and its agencies,
26 boards and commissions, to the United States government
27 and its agencies, boards and commissions, to creditors and
28 to purchasers that a lien against the vehicle exists, subject
29 to the provisions of section three hundred seven, article
30 nine, chapter forty-six of this code, except that any lien or
31 encumbrance on such a vehicle shall not be effective
32 against the rights of any purchaser for value who purchas-
33 es such vehicle primarily for personal, family, household
34 or agricultural purposes unless such lien or encumbrance

35 is recorded on the certificate of title or specified on the
36 bill of sale.

§17A-4A-5. Priority of liens shown on certificate.

1 The liens shown upon a certificate of title issued by
2 the department pursuant to applications for same shall
3 have priority over any other liens against such vehicle,
4 however created and recorded, except as otherwise provid-
5 ed in this article.

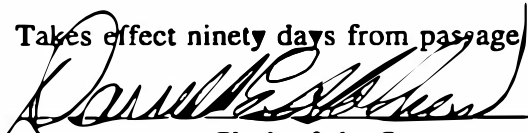
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee


Chairman House Committee

Originating in the House.

Takes effect ninety days from passage


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within _____ this the _____
day of _____, 1995.

Governor

PRESENTED TO THE

GOVERNOR

Date 8/31/95

Time 2:21 pm