WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

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ENROLLED

Com. Sub. for

HOUSE BILL No. 2099

(By Delegates FAURS, LEAVE AND KELLEY)

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Passed .......... March 11 ............... 1995

In Effect .......... 90 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 voluntary act of the owner after the original issue of title
to be properly recorded must be shown on the certificate of title. In such cases, the owner or lienholder shall file application with the department on a blank furnished for that purpose, setting forth the lien or liens and such information and evidence of the lien in connection therewith as the department may deem necessary. Such information shall include the name and address of the lienholder, the kind of and nature of the lien, the date thereof, and the amount thereby secured. However, only the name and address of the lienholder shall be endorsed on the title certificate with the endorsement of the fact of such lien as hereinafter provided. The department, if satisfied that it is proper that the same be recorded, and upon surrender of the certificate of title covering the vehicle, shall thereupon issue a new certificate of title, showing the liens or encumbrances in the order of their filing being according to the date, hour and minute of receipt by the department of the application for same. For the purpose of recording a subsequent lien on a certificate of title, the subsequent lienholder shall make a written request upon the lienholder in possession of the certificate of title, accompanied by proof of the existence of the subsequent lien, stating his need to have possession of the certificate of title for the purpose of having his lien recorded thereon by the department of motor vehicles. Thereupon, the lienholder in possession of the certificate shall within a reasonable time, not to exceed ten days from the receipt of said written request, deliver the certificate of title to the requesting subsequent lienholder.

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

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

(a) A certificate of title, when issued by the department showing a lien or encumbrance, shall be deemed from and after the filing with the department of the application therefor adequate notice to the state and its agencies, boards and commissions, to the United States government and its agencies, boards and commissions, to creditors and to purchasers that a lien against the vehicle exists and the recording of such reservation of title, lien or encumbrance in the county wherein the purchaser or debtor resides or elsewhere is not necessary and shall not be required or have any effect. Notwithstanding any other provision of this code to the contrary, and subject to the provisions of subsection (b) of this section and of section four of this article, any lien or encumbrance placed upon a vehicle by the voluntary act of the owner but not shown on such certificate of title shall be void as to any purchaser for value or lien creditor, who, in either case, without notice of such lien or encumbrance, purchases such vehicle or acquires by attachment, levy or otherwise a lien thereupon.

(b) The creation and perfection of a lien against a vehicle held as inventory for sale by a registered dealer holding title by assignment in accordance with the provisions of article nine, chapter forty-six of this code shall be deemed adequate notice to the state and its agencies, boards and commissions, to the United States government and its agencies, boards and commissions, to creditors and to purchasers that a lien against the vehicle exists, subject to the provisions of section three hundred seven, article nine, chapter forty-six of this code, except that any lien or encumbrance on such a vehicle shall not be effective against the rights of any purchaser for value who purchases such vehicle primarily for personal, family, household 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.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signatures]

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.

[Signature]

Governor