

CHAPTER 196

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 09-1089

BY REPRESENTATIVE(S) Primavera, Fischer, McFadyen, Merrifield, Priola;
also SENATOR(S) Spence, Gibbs, Kester.

AN ACT

CONCERNING THE FILING REQUIREMENTS FOR LIENS THAT SECURE A DEBT UPON A VEHICLE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 42-6-121 (1), Colorado Revised Statutes, is amended to read:

42-6-121. Filing of mortgage. (1) The holder of a chattel mortgage on a motor vehicle desiring to secure the rights provided for in this part 1 and to have the existence of the mortgage and the fact of the filing of the mortgage for public record noted in the filing of the certificate of title to the encumbered motor vehicle shall present the signed original or signed duplicate of the mortgage or copy thereof certified by the holder of the mortgage or the holder's agent to be a true copy of the signed original mortgage and the certificate of title or application for certificate of title to the motor vehicle encumbered to the authorized agent of the director in the county or city and county in which the mortgagor of such motor vehicle resides or where the property is located. The filings may be MADE either with paper documents or electronically. The mortgage or refinancing of a loan secured by a mortgage shall state the name and address of the debtor; the name and address of the mortgagee or name of the mortgagee's assignee; the make, ~~model~~, vehicle identification number, and ~~color~~ YEAR OF MANUFACTURE of the mortgaged vehicle; and the date and amount of the loan secured by the mortgage.

SECTION 2. The introductory portion to 42-6-122 (1) (a) and 42-6-122 (1) (a) (I), Colorado Revised Statutes, are amended to read:

42-6-122. Disposition of mortgages by agent. (1) The authorized agent, upon receipt of the mortgage, shall file the mortgage in the agent's office. Such mortgage shall be appropriately indexed and cross-indexed:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) Under one or more of the following headings in accordance with ~~such~~ THE rules ~~and regulations relating thereto as may be~~ adopted by the director:

(I) Make ~~motor number, manufacturer's number, or serial number~~ OR VEHICLE IDENTIFICATION NUMBER of motor vehicles mortgaged;

SECTION 3. The introductory portion to 42-6-125 (1) and 42-6-125 (1) (a) and (1) (b), Colorado Revised Statutes, are amended to read:

42-6-125. Release of mortgages. (1) Upon the payment or discharge of the undertaking secured by any mortgage on a motor vehicle ~~which~~ THAT has been filed for record in the manner prescribed in section 42-6-121, the legal holder, ~~thereof~~, on a form approved by the director, shall make and execute ~~such~~ THE notice of the discharge of the obligation and release of the mortgage securing the obligation and set forth in the notice ~~such~~ THE facts concerning the right of the holder to ~~so~~ release ~~said~~ THE mortgage as the director by appropriate rule ~~from time to time~~ may require, which satisfaction and release shall be affirmed by a statement signed by the legal lienholder noted in the certificate of title on file with the director or the director's authorized agent and ~~which~~ THAT shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S. Thereupon, the holder of the mortgage so released shall dispose of the certificate of title as follows:

(a) If it appears that the motor vehicle ~~therein described~~ is encumbered by a mortgage filed in the manner prescribed in section 42-6-121 ~~subsequent to August 1, 1949, and~~ subsequent to the date on which the mortgage so released was filed for record, the holder of such certificate of title shall deliver the ~~same~~ TITLE to the person ~~so~~ shown to be the holder of the mortgage noted ~~thereon~~ ON THE TITLE, filed earliest ~~in point of time~~ after the filing of the mortgage released, or to the person or agent of the person shown to be the assignee or other legal holder of the ~~undertaking secured thereby~~ MORTGAGE or shall mail the ~~same~~ TITLE to ~~such~~ THE mortgagee or holder ~~thereof~~ at his or her address. ~~as the same thereon appears.~~ If ~~such~~ THE certificate is returned unclaimed, it shall be sent by mail to the director.

(b) If it appears from an examination of the certificate of title that there are no other outstanding mortgages against the motor vehicle ~~therein described, filed for record subsequent to August 1, 1949,~~ IN THE TITLE, upon the release of ~~such~~ THE mortgage as provided in this section, the holder ~~thereof~~ OF THE MORTGAGE shall deliver the certificate of title to the owner of the vehicle ~~therein described~~ or shall mail the ~~same~~ TITLE to the owner at his or her address, ~~as the same may therein appear,~~ and, if for any reason ~~said~~ THE certificate of title is not delivered to the owner of the vehicle ~~therein described~~ or is returned unclaimed, ~~upon the mailing thereof,~~ it shall immediately be mailed to the director.

SECTION 4. 42-6-126 (1), Colorado Revised Statutes, is amended to read:

42-6-126. New certificate upon release of mortgage - rules. (1) (a) Upon the SATISFACTION OF THE DEBT AND release of ~~any~~ A mortgage on a motor vehicle filed for record in the manner prescribed in section 42-6-121:

(I) The owner of the vehicle encumbered by ~~such~~ THE mortgage, the purchaser

from or transferee of the owner ~~thereof~~ as appears on the certificate of title, or the holder of any mortgage ~~the lien of which~~ THAT was junior to ~~the lien of~~ the mortgage released, ~~whichever the case may be~~; upon the receipt of the certificate of title, as provided in section 42-6-125, shall deliver the ~~same~~ TITLE to the authorized agent who shall transmit the ~~same~~ TITLE to the director; ~~as in other cases.~~ OR

(II) THE LIENHOLDER SHALL NOTIFY THE AUTHORIZED AGENT OF THE SATISFACTION OF THE DEBT AND RELEASE OF THE MORTGAGE, SETTING FORTH ANY FACTS CONCERNING THE RIGHT OF THE HOLDER TO RELEASE THE MORTGAGE AS THE DIRECTOR MAY REQUIRE. THE SATISFACTION AND RELEASE SHALL BE AFFIRMED BY A STATEMENT SIGNED BY THE LIENHOLDER NOTED IN THE CERTIFICATE OF TITLE AND SHALL CONTAIN OR BE ACCOMPANIED BY A WRITTEN DECLARATION THAT IT IS MADE UNDER THE PENALTIES OF PERJURY IN THE SECOND DEGREE, AS DEFINED IN SECTION 18-8-503, C.R.S. UPON RECEIVING A VALID SATISFACTION AND RELEASE, THE DIRECTOR OR AUTHORIZED AGENT SHALL NOTE THE RELEASE OF THE LIEN AND SHALL ISSUE A CERTIFICATE OF TITLE FOR THE MOTOR VEHICLE, OMITTING ALL REFERENCE TO THE MORTGAGE.

(b) Upon the receipt by the director of ~~the certificate of title bearing thereon the release and satisfaction of mortgage referred to in section 42-6-125~~ A STATEMENT OF MORTGAGE RELEASE, the director shall: ~~make such notation~~

(I) NOTE on the records in the director's office ~~as shall~~ TO show the release of the lien of ~~such~~ THE mortgage;

(II) ~~shall~~ Issue a new certificate of title to the motor vehicle, ~~therein described~~; omitting ~~therefrom~~ all reference to the RELEASED mortgage; ~~so released~~ and

(III) ~~shall~~ Dispose of the new certificate of title in the manner prescribed in other cases unless directed otherwise.

SECTION 5. 42-6-127, Colorado Revised Statutes, is amended to read:

42-6-127. Duration of lien of mortgage - extensions. (1) The lien of ~~any~~ A mortgage or refinancing of a mortgage filed in the manner prescribed in section 42-6-121 or 42-6-129 shall remain valid and enforceable for a period of ~~eight~~ TEN years ~~from and~~ after the filing of the certificate in the office of the director's authorized agent or until the discharge of the mortgage on the vehicle, if the discharge occurs sooner, except in the case of trailer coaches; truck tractors; MULTIPURPOSE TRAILERS, IF KNOWN WHEN FILED; and motor homes, ~~which~~ THAT are subject to the provisions of subsection (3) of this section. During the ~~eight-year~~ TEN-YEAR period or any extension of such period, the lien of the mortgage may be extended for successive three-year periods upon the holder of the mortgage presenting to the director's authorized agent of the county ~~wherein said~~ WHERE THE mortgage is filed or in the county where the owner resides a certification of extension of chattel mortgage, subscribed by the holder of the mortgage and acknowledged by the holder before an officer authorized to acknowledge deeds to real property, in which shall appear a description of the mortgage on the vehicle, to what extent it has been discharged or remains unperformed, and such other information respecting the mortgage as may be required by appropriate rule of the director to enable the director's authorized agent to properly record ~~such~~ THE

extension. ~~upon his or her records.~~

(2) Upon receipt of a mortgage extension, the director's authorized agent shall make and complete ~~such~~ THE electronic record of ~~such~~ THE extension as the director by rule may require within the director's or the director's authorized agent's motor vehicle database, and shall note the fact of the extension of the mortgage on the certificate of title, which may be filed electronically. Thereafter the certificate of title shall be returned to the person shown on the certificate to be entitled to the certificate. ~~the same as in other cases.~~ If any mortgage other than one on a trailer coach; truck tractor; MULTIPURPOSE TRAILER, IF KNOWN WHEN FILED; or motor home, ~~which~~ THAT has been filed for record and noted on the certificate of title, has not been released or extended within ~~eight~~ TEN years after the date on which ~~such~~ THE mortgage was filed in the office of the director's authorized agent, the person shown by the records in the director's office to be the owner of the motor vehicle described in ~~said~~ THE certificate of title, upon making an appropriate application therefor, may request that any references to the mortgages shown on the records of the director's authorized agent be removed by the authorized agent. The director's authorized agent shall remove all reference to mortgages shown in the director's authorized agent's records to have been of record in the office of the authorized agent for more than ~~eight~~ TEN years, which mortgages have been neither released nor extended as provided in this section.

(3) The duration of the lien of any mortgage on a trailer coach, as defined in section 42-1-102 (106) (a), a truck tractor, as defined in section 42-1-102 (109), A MULTIPURPOSE TRAILER, AS DEFINED IN SECTION 42-1-102 (60.3), or a motor home, as defined in section 42-1-102 (57), shall be for the full term of the mortgage, but the lien of the mortgage may be extended beyond the original term ~~thereof~~ OF THE MORTGAGE for successive three-year periods by following the procedure prescribed in subsection (1) of this section during the term of the mortgage or any extension thereof.

SECTION 6. Repeal. 42-6-132, Colorado Revised Statutes, is repealed as follows:

~~42-6-132. Existing mortgages not affected. Nothing in this part 1 shall be construed to impair the rights of the holder of any lien on a motor vehicle created by mortgage or otherwise prior to August 1, 1949, which remains unreleased and the undertaking that the lien secures remains undischarged. Nothing in this part 1 shall be construed to relieve the holders of such liens of the duty to file such instruments respecting the undertakings secured thereby as may be required by law to preserve the liens of such mortgages unimpaired.~~

SECTION 7. 42-6-135 (3), Colorado Revised Statutes, is amended to read:

42-6-135. Lost certificates of title - rule. (3) (a) Upon the issuance of a copy of the recorded certificate of title as provided FOR in this section, the director or the authorized agent shall note on the copy every mortgage shown to be unreleased and the lien that is in effect as disclosed by the records of the director or authorized agent and shall dispose of such certificate as in other cases.

(b) UPON THE PAYMENT OR DISCHARGE OF THE DEBT SECURED BY A MORTGAGE

ON A MOTOR VEHICLE THAT HAS BEEN FILED FOR RECORD IN THE MANNER PRESCRIBED IN SECTION 42-6-121, THE LIENHOLDER SHALL NOTIFY THE AUTHORIZED AGENT OF THE SATISFACTION AND RELEASE OF THE MORTGAGE, SETTING FORTH ANY FACTS CONCERNING THE RIGHT OF THE HOLDER TO RELEASE THE MORTGAGE AS THE DIRECTOR MAY REQUIRE. THE SATISFACTION AND RELEASE SHALL BE AFFIRMED BY A STATEMENT SIGNED BY THE LIENHOLDER NOTED IN THE CERTIFICATE OF TITLE AND SHALL CONTAIN OR BE ACCOMPANIED BY A WRITTEN DECLARATION THAT IT IS MADE UNDER THE PENALTIES OF PERJURY IN THE SECOND DEGREE, AS DEFINED IN SECTION 18-8-503, C.R.S. UPON RECEIVING A VALID SATISFACTION AND RELEASE, THE DIRECTOR OR AUTHORIZED AGENT SHALL NOTE THE RELEASE OF THE LIEN AND SHALL ISSUE A CERTIFICATE OF TITLE FOR THE MOTOR VEHICLE, OMITTING ALL REFERENCE TO THE MORTGAGE.

SECTION 8. Act subject to petition - effective date - applicability. (1) This act shall take effect October 1, 2009.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to applications or filings made on or after the applicable effective date of this act.

Approved: April 30, 2009