

Unofficial Document

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2016 REGULAR SESSION

Amend printed copy of HB 185/GA

On page 1, beginning on line 3 and continuing through page 6, line 17 delete Section 1 in its entirety and insert in lieu thereof:

"➔Section 1. KRS 186A.190 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section and in KRS 355.9-311(4), the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of seven (7) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for seven (7) additional years.
- (2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county

Amendment No. SFA 1

Sponsor: Sen. Tom Buford

Committee Amendment: _____

Signed: _____

Floor Amendment: _____

LRC Drafter: Donaldson, Sean

Adopted: _____

Date: _____

Rejected: _____

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of the debtor's residence:

- (a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;
- (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS 362.2-102(14) shall be deemed a resident of the county in which its principal place of business is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362 or 362.2-202. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;
- (c) A limited partnership not organized under the laws of this state and authorized to do business in this state shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;
- (e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;
- (f) A cooperative corporation or association organized under KRS Chapter 272 shall be

deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

- (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;
- (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and
- (j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited liability company, limited liability partnership, limited partnership, or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the

sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on the property's certificate of title under the provisions of this chapter or in accordance with the provisions of KRS 186.045(3). In other respects the security interest is governed by the provisions of KRS Chapter 355.

- (3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, a subsequent title shall not be issued by any county clerk free of the notation unless the owner's title is presented to the clerk and it has been noted thereon that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. If information relating to the discharge of a security interest is presented to a clerk under the provisions of KRS 186.045(3), the clerk shall discharge the security interest and remove the lien information from AVIS.
- (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a salvage~~[new]~~ title to a vehicle pursuant to KRS 186A.520, clear of all prior liens, to a person after he or she provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by that~~[the]~~ person. In the affidavit, the affiant~~[person]~~ shall attest that:
- (a) He or she possesses the vehicle;
 - (b) Before~~[A debt on the vehicle was owed him for more than thirty (30) days before]~~ he or she provided the notices required by paragraphs (c) and (d) of this subsection, a

debt on the vehicle has been owed to him or her for more than thirty (30) days and:

1. An insurance company has been unable to obtain from the current owner of the vehicle a properly endorsed certificate of title on the vehicle, within thirty (30) days of payment of damages by the insurance company and receipt by the current owner of the motor vehicle of damages pursuant to a claim settlement which required transfer of the vehicle to the insurance company; or
2. The vehicle was voluntarily towed or transported pursuant to a request of the current owner or an insurance company that a motor vehicle dealer, licensed as a used motor vehicle dealer and motor vehicle auction dealer, take possession of and store the motor vehicle in the regular course of business, and the motor vehicle dealer has not been paid storage fees, directed to repair the vehicle, and has not been provided a properly endorsed certificate of title within forty-five (45) days of taking possession of the motor vehicle;

- (c) More than thirty (30)~~fourteen (14)~~ days before presenting the affidavit to the county clerk, the affiant~~person~~ attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, or by a nationally recognized courier service of his or her name, address, and telephone number as well as his or her intention to obtain a new title, clear of all prior liens, unless the owner or a lienholder objects~~objected~~ in writing;
- (d) More than fourteen (14) days before presenting the affidavit to the county clerk, the affiant~~person~~ had published a legal notice stating his intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper published, and with a statewide circulation, in Kentucky. The legal notice stated:
 1. The affiant's~~person's~~ name, address, and telephone number;

2. The owner's name;
 3. The names of all known lienholders, including those noted on the title;
 4. The vehicle's make, model, and year; and
 5. The affiant's[person's] intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and
 - (e) Neither the owner nor a lienholder has objected in writing to the affiant's[person]'s right to obtain title to the vehicle.
- (5) No more than two (2) active security interests may be noted upon a certificate of title.
- (6) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.
- (7) For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.
- (8) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder."