

SECOND REGULAR SESSION

# SENATE BILL NO. 954

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 26, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6245S.011

## AN ACT

To repeal section 301.640, RSMo, and to enact in lieu thereof one new section relating to release of lienholders' rights, with exiting penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 301.640, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 301.640, to read as follows:

301.640. 1. Within five business days after the satisfaction of any lien or  
2 encumbrance of a motor vehicle or trailer, the lienholder shall, **through**  
3 **electronic means established by the director of revenue**, release the lien  
4 or encumbrance on the certificate or a separate document, and [mail or deliver]  
5 **electronically transmit** the certificate or a separate document to the owner or  
6 any person who delivers to the lienholder an authorization from the owner to  
7 receive the certificate or such documentation. The release on the certificate or  
8 separate document shall be notarized, **and such notarization shall appear**  
9 **conspicuously on the electronic transmittal of each such certificate or**  
10 **document**. Each perfected subordinate lienholder, if any, shall release such lien  
11 or encumbrance as provided in this section for the first lienholder. The owner  
12 may cause the certificate to be mailed or delivered to the director of revenue, who  
13 shall issue a new certificate of ownership upon application and payment of the  
14 required fee. A lien or encumbrance shall be satisfied for the purposes of this  
15 section when a lienholder receives payment in full in the form of certified funds,  
16 as defined in section 381.410, or when the lienholder receives payment in full  
17 electronically or by way of electronic funds transfer, whichever first occurs.

18 2. If the electronic certificate of ownership is in the possession of the  
19 director of revenue, the lienholder shall notify, **by electronic means**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 **established by the director of revenue**, the director within five business days  
21 after any release of a lien and provide the director with the most current address  
22 of the owner or any person who delivers to the lienholder an authorization from  
23 the owner to receive the certificate or such documentation. The director shall  
24 note such release on the electronic certificate and if no other lien exists the  
25 director shall mail or deliver the certificate free of any lien to the owner or any  
26 person who has delivered to the lienholder an authorization from the owner to  
27 receive the certificate or such documentation from the director.

28         3. If the purchase price of a motor vehicle or trailer did not exceed six  
29 thousand dollars at the time of purchase, a lien or encumbrance which was not  
30 perfected by a motor vehicle financing corporation whose net worth exceeds one  
31 hundred million dollars, or a depository institution, shall be considered satisfied  
32 within six years from the date the lien or encumbrance was originally perfected  
33 unless a new lien or encumbrance has been perfected as provided in section  
34 301.600. This subsection does not apply to motor vehicles or trailers for which  
35 the certificate of ownership has recorded in the second lienholder portion the  
36 words "subject to future advances".

37         4. Any lienholder who fails to timely comply with subsection 1 or 2 of this  
38 section shall pay to the person or persons satisfying the lien or encumbrance  
39 liquidated damages up to a maximum of two thousand five hundred dollars for  
40 each lien. Liquidated damages shall be five hundred dollars if the lienholder does  
41 not comply within five business days after satisfaction of the lien or  
42 encumbrance. Liquidated damages shall be one thousand dollars if the lienholder  
43 does not comply within ten business days after satisfaction of the lien or  
44 encumbrance. Liquidated damages shall be two thousand dollars if the lienholder  
45 does not comply within fifteen business days after satisfaction of the lien or  
46 encumbrance. Liquidated damages shall be two thousand five hundred dollars  
47 if the lienholder does not comply within twenty business days after satisfaction  
48 of the lien or encumbrance. If delivery of the certificate or other lien release is  
49 made by mail, the delivery date is the date of the postmark for purposes of this  
50 subsection. In computing any period of time prescribed or allowed by this section,  
51 the day of the act or event after which the designated period of time begins to run  
52 is not to be counted. However, the last day of the period so computed is to be  
53 included, unless it is a Saturday, Sunday, or a legal holiday, in which event the  
54 period runs until the end of the next day that is not a Saturday, Sunday, or legal  
55 holiday.

56           5. Any person who knowingly and intentionally [sends in] **electronically**  
57 **transmits or otherwise delivers** a separate document releasing a lien of  
58 another without authority to do so shall be guilty of a class C felony.

59           **6. The director of revenue shall adopt such rules and regulations**  
60 **as may be necessary to carry out the provisions of this section.**

61           **7. Any rule or portion of a rule, as that term is defined in section**  
62 **536.010 that is created under the authority delegated in this section**  
63 **shall become effective only if it complies with and is subject to all of**  
64 **the provisions of chapter 536, and, if applicable, section 536.028. This**  
65 **section and chapter 536 are nonseverable and if any of the powers**  
66 **vested with the general assembly pursuant to chapter 536, to review, to**  
67 **delay the effective date, or to disapprove and annul a rule are**  
68 **subsequently held unconstitutional, then the grant of rulemaking**  
69 **authority and any rule proposed or adopted after August 28, 2014, shall**  
70 **be invalid and void.**

✓

Bill

Copy