

FIRST REGULAR SESSION

# HOUSE BILL NO. 550

96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DAY.

1574L.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 301.600, 306.400, and 700.350, RSMo, and to enact in lieu thereof three new sections relating to liens and encumbrances.

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

Section A. Sections 301.600, 306.400, and 700.350, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 301.600, 306.400, and 700.350, to read as follows:

- 301.600. 1. Unless excepted by section 301.650, a lien or encumbrance on a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.
2. Subject to the provisions of section 301.620, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. **The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but**  
18 **no later than fifteen business days after the filing of the notice of lien.**

19 **3. Notwithstanding the provisions of section 301.620, on a refinance of a loan**  
20 **secured by a motor vehicle or trailer a lien is perfected by the delivery to the director of**  
21 **revenue of a notice of lien completed by the refinancing lender in a format prescribed by**  
22 **the director of revenue.**

23 **4.** To perfect a subordinate lien, the notice of lien must be accompanied by the  
24 documents required to be delivered to the director pursuant to subdivision (3) of section 301.620.  
25 [The notice of lien is perfected as of the time of its creation if the delivery of such notice to the  
26 director of revenue is completed within thirty days thereafter, otherwise as of the time of the  
27 delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle  
28 or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle  
29 identification number, and such other information as the department of revenue may prescribe.  
30 A notice of lien substantially complying with the requirements of this section is effective even  
31 though it contains minor errors which are not seriously misleading. Provided the lienholder  
32 submits complete and legible documents, the director of revenue shall mail confirmation or  
33 electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no  
34 later than fifteen business days after the filing of the notice of lien.

35 **3.] 5.** Liens may secure future advances. The future advances may be evidenced by one  
36 or more notes or other documents evidencing indebtedness and shall not be required to be  
37 executed or delivered prior to the date of the future advance lien securing them. The fact that  
38 a lien may secure future advances shall be clearly stated on the security agreement and noted as  
39 "subject to future advances" on the notice of lien and noted on the certificate of ownership if the  
40 motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an  
41 existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall  
42 file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances  
43 is perfected in the same time and manner as any other lien, except as follows: proof of the lien  
44 for future advances is maintained by the department of revenue; however, there shall be  
45 additional proof of such lien when the notice of lien reflects such lien for future advances, is  
46 receipted for by the department of revenue, and returned to the lienholder.

47 **[4.] 6.** If a motor vehicle or trailer is subject to a lien or encumbrance when brought into  
48 this state, the validity and effect of the lien or encumbrance is determined by the law of the  
49 jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached,  
50 subject to the following:

51 (1) If the parties understood at the time the lien or encumbrance attached that the motor  
52 vehicle or trailer would be kept in this state and it was brought into this state within thirty days

53 thereafter for purposes other than transportation through this state, the validity and effect of the  
54 lien or encumbrance in this state is determined by the law of this state;

55 (2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where  
56 the motor vehicle or trailer was when the lien or encumbrance attached, the following rules  
57 apply:

58 (a) If the name of the lienholder is shown on an existing certificate of title or ownership  
59 issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

60 (b) If the name of the lienholder is not shown on an existing certificate of title or  
61 ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state  
62 three months after a first certificate of ownership of the motor vehicle or trailer is issued in this  
63 state, and also thereafter if, within the three-month period, it is perfected in this state. The lien  
64 or encumbrance may also be perfected in this state after the expiration of the three- month  
65 period; in that case perfection dates from the time of perfection in this state;

66 (3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction  
67 where the motor vehicle or trailer was when the lien or encumbrance attached, it may be  
68 perfected in this state; in that case perfection dates from the time of perfection in this state;

69 (4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2)  
70 or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by  
71 the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form  
72 the director of revenue prescribes and the required fee.

73 [5.] 7. By rules and regulations, the director of revenue shall establish a security  
74 procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction  
75 of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that  
76 of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection  
77 of a lien given as required in section 301.610 is that of the director of revenue, and detecting  
78 error in the transmission or the content of any such notice. A security procedure may require the  
79 use of algorithms or other codes, identifying words or numbers, encryption, callback procedures  
80 or similar security devices. Comparison of a signature on a communication with an authorized  
81 specimen signature shall not by itself be a security procedure.

306.400. 1. As used in sections 306.400 to 306.440, the terms "motorboat", "vessel",  
2 and "watercraft" shall have the same meanings given them in section 306.010, and the term  
3 "outboard motor" shall include outboard motors governed by section 306.530.

4 2. Unless excepted by section 306.425, a lien or encumbrance on an outboard motor,  
5 motorboat, vessel, or watercraft shall not be valid against subsequent transferees or lienholders  
6 of the outboard motor, motorboat, vessel or watercraft, who took without knowledge of the lien

7 or encumbrance unless the lien or encumbrance is perfected as provided in sections 306.400 to  
8 306.430.

9 3. A lien or encumbrance on an outboard motor, motorboat, vessel or watercraft is  
10 perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed  
11 by the director. Such lien or encumbrance shall be perfected as of the time of its creation if the  
12 delivery of the items required in this subsection to the director of revenue is completed within  
13 thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the  
14 delivery. A notice of lien shall contain the name and address of the owner of the outboard motor,  
15 motorboat, vessel or watercraft and the secured party, a description of the outboard motor,  
16 motorboat, vessel or watercraft motor, including any identification number, and such other  
17 information as the department of revenue may prescribe. A notice of lien substantially  
18 complying with the requirements of this section is effective even though it contains minor errors  
19 which are not seriously misleading. Provided the lienholder submits complete and legible  
20 documents, the director of revenue shall mail confirmation or electronically confirm receipt of  
21 each notice of lien to the lienholder as soon as possible, but no later than fifteen business days  
22 after the filing of the notice of lien.

23 **4. Notwithstanding the provisions of section 306.410, on a refinance of a loan**  
24 **secured by an outboard motor, motorboat, vessel or watercraft, a lien is perfected by the**  
25 **delivery to the director of revenue of a notice of lien completed by the refinancing lender**  
26 **in a format prescribed by the director of revenue.**

27 5. Liens may secure future advances. The future advances may be evidenced by one or  
28 more notes or other documents evidencing indebtedness and shall not be required to be executed  
29 or delivered prior to the date of the future advance lien securing them. The fact that a lien may  
30 secure future advances shall be clearly stated on the security agreement and noted as "subject to  
31 future advances" in the second lienholder's portion of the notice of lien. To secure future  
32 advances when an existing lien on an outboard motor, motorboat, vessel or watercraft does not  
33 secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future  
34 advances. A lien to secure future advances is perfected in the same time and manner as any other  
35 lien, except as follows. Proof of the lien for future advances is maintained by the department of  
36 revenue; however, there shall be additional proof of such lien when the notice of lien reflects  
37 such lien for future advances, is receipted for by the department of revenue, and returned to the  
38 lienholder.

39 [5.] 6. Whether an outboard motor, motorboat, vessel, or watercraft is subject to a lien  
40 or encumbrance shall be determined by the laws of the jurisdiction where the outboard motor,  
41 motorboat, vessel, or watercraft was when the lien or encumbrance attached, subject to the  
42 following:

43 (1) If the parties understood at the time the lien or encumbrances attached that the  
44 outboard motor, motorboat, vessel, or watercraft would be kept in this state and it is brought into  
45 this state within thirty days thereafter for purposes other than transportation through this state,  
46 the validity and effect of the lien or encumbrance in this state shall be determined by the laws  
47 of this state;

48 (2) If the lien or encumbrance was perfected pursuant to the laws of the jurisdiction  
49 where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance  
50 attached, the following rules apply:

51 (a) If the name of the lienholder is shown on an existing certificate of title or ownership  
52 issued by that jurisdiction, his or her lien or encumbrance continues perfected in this state;

53 (b) If the name of the lienholder is not shown on an existing certificate of title or  
54 ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state  
55 for three months after the first certificate of title of the outboard motor, motorboat, vessel, or  
56 watercraft is issued in this state, and also thereafter if, within the three-month period, it is  
57 perfected in this state. The lien or encumbrance may also be perfected in this state after the  
58 expiration of the three-month period, in which case perfection dates from the time of perfection  
59 in this state;

60 (3) If the lien or encumbrance was not perfected pursuant to the laws of the jurisdiction  
61 where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance  
62 attached, it may be perfected in this state, in which case perfection dates from the time of  
63 perfection in this state;

64 (4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2)  
65 or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this  
66 section.

67 [6.] 7. The director of revenue shall by rules and regulations establish a security  
68 procedure to verify that an electronic notice or lien or notice of satisfaction of a lien on an  
69 outboard motor, motorboat, vessel or watercraft given pursuant to sections 306.400 to 306.440  
70 is that of the lienholder, to verify that an electronic notice of confirmation of ownership and  
71 perfection of a lien given pursuant to section 306.410 is that of the director of revenue and to  
72 detect error in the transmission or the content of any such notice. Such a security procedure may  
73 require the use of algorithms or other codes, identifying words or numbers, encryption, callback  
74 procedures or similar security devices. Comparison of a signature on a communication with an  
75 authorized specimen signature shall not by itself constitute a security procedure.

700.350. 1. As used in sections 700.350 to 700.390, the term manufactured home shall  
2 have the same meaning given it in section 400.9-102(a)(53).

3           2. Unless excepted by section 700.375, a lien or encumbrance, including a security  
4 interest under article 9 of chapter 400, on a manufactured home shall not be valid against  
5 subsequent transferees or lienholders of the manufactured home who took without knowledge  
6 of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections  
7 700.350 to 700.380.

8           3. A lien or encumbrance on a manufactured home is perfected by the delivery to the  
9 director of revenue of a notice of lien in a format as prescribed by the director of revenue. Such  
10 lien or encumbrance shall be perfected as of the time of its creation if the delivery of the notice  
11 of lien required in this subsection to the director of revenue is completed within thirty days  
12 thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery;  
13 provided, however, that a purchase money security interest in a manufactured home under article  
14 9 of chapter 400 is perfected against the rights of judicial lien creditors and execution creditors  
15 on and after the date such purchase money security interest attaches; and further provided that  
16 the holder of a security interest in or a lien on a manufactured home may deliver lien release  
17 documents to any person to facilitate conveying or encumbering the manufactured home. Any  
18 person receiving any such documents so delivered holds the documents in trust for the security  
19 interest holder or the lienholder. A notice of lien shall contain the name and address of the  
20 owner of the manufactured home and the secured party, a description of the manufactured home,  
21 including any identification number and such other information as the department of revenue  
22 shall prescribe. A notice of lien substantially complying with the requirements of this section  
23 is effective even though it contains minor errors which are not seriously misleading.

24           **4. Notwithstanding the provisions of section 700.360, on a refinance of a loan**  
25 **secured by a manufactured home, a lien is perfected by the delivery to the director of**  
26 **revenue of a notice of lien completed by the refinancing lender in a format prescribed by**  
27 **the director of revenue.**

28           5. Liens may secure future advances. The future advances may be evidenced by one or  
29 more notes or other documents evidencing indebtedness and shall not be required to be executed  
30 or delivered prior to the date of the future advance lien securing them. The fact that a lien may  
31 secure future advances shall be clearly stated on the security agreement and noted as "subject to  
32 future advances" in the notice of lien and noted on the certificate of ownership if the motor  
33 vehicle or trailer is subject to only one lien. To secure future advances when an existing lien on  
34 a manufactured home does not secure future advances, the lienholder shall file a notice of lien  
35 reflecting the lien to secure future advances. A lien to secure future advances is perfected in the  
36 same time and manner as any other lien, except as follows: proof of the lien for future advances  
37 is maintained by the department of revenue; however, there shall be additional proof of such lien

38 when the notice of lien reflects such lien for future advances, is received by the department of  
39 revenue, and returned to the lienholder.

40 [4.] 6. Whether a manufactured home is subject to a lien or encumbrance shall be  
41 determined by the laws of the jurisdiction where the manufactured home was when the lien or  
42 encumbrance attached, subject to the following:

43 (1) If the parties understood at the time the lien or encumbrances attached that the  
44 manufactured home would be kept in this state and it is brought into this state within thirty days  
45 thereafter for purposes other than transportation through this state, the validity and effect of the  
46 lien or encumbrance in this state shall be determined by the laws of this state;

47 (2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the  
48 manufactured home was when the lien or encumbrance attached, the following rules apply:

49 (a) If the name of the lienholder is shown on an existing certificate of title or ownership  
50 issued by that jurisdiction, his lien or encumbrance continues perfected in this state;

51 (b) If the name of the lienholder is not shown on an existing certificate of title or  
52 ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state  
53 for three months after the first certificate of title of the manufactured home is issued in this state,  
54 and also thereafter if, within the three-month period, it is perfected in this state. The lien or  
55 encumbrance may also be perfected in this state after the expiration of the three-month period,  
56 in which case perfection dates from the time of perfection in this state;

57 (3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where  
58 the manufactured home was when the lien or encumbrance attached, it may be perfected in this  
59 state, in which case perfection dates from the time of perfection in this state;

60 (4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or  
61 subdivision (3) of this subsection in the same manner as provided in subsection 3 **or** 4 of this  
62 section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance  
63 in the form the director prescribes and the required fee.

64 [5.] 7. By rules and regulations, the director of revenue shall establish a security  
65 procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction  
66 of lien on a manufactured home given as permitted in this chapter is that of the lienholder,  
67 verifying that an electronic notice of confirmation of ownership and perfection of a lien given  
68 as required in this chapter is that of the director of revenue, and detecting error in the  
69 transmission or the content of such notice. A security procedure may require the use of  
70 algorithms or other codes, identifying words or numbers, encryption, callback procedures or  
71 similar security devices. Comparison of a signature on a communication with an authorized  
72 specimen signature shall not by itself be a security procedure.

73 [6.] **8.** All transactions involving liens or encumbrances on manufactured homes  
74 perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and before August 28,  
75 2002, and the rights, duties, and interests flowing from them are and shall remain valid thereafter  
76 and may be terminated, completed, consummated, or enforced as required or permitted by  
77 section 400.9-303. Section 400.9-303 and this section are remedial in nature and shall be given  
78 that construction.

79 [7.] **9.** Except as otherwise provided in section 442.015, subsections 1 and 2 of section  
80 700.111, subsection 2 of section 700.360, and subsection 2 of section 700.375, after a certificate  
81 of title has been issued to a manufactured home and as long as the manufactured home is subject  
82 to any security interest perfected under this section, the department shall not file an affidavit of  
83 affixation, nor cancel the manufacturer's certificate of origin, nor revoke the certificate of title,  
84 and, in any event, the validity and priority of any security interest perfected under this section  
85 shall continue, notwithstanding the provision of any other law.

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