GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 74

TUESDAY, JANUARY 26, 2016

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED
DATE April 1, 2016
1:32pm

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Allen

1 AN ACT relating to security interests.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 186.045 is amended to read as follows:

4 (1) A perfected security interest in a motor vehicle that has been satisfied by payment in
5 full shall be deemed to have been discharged if one (1) or both of the following
6 events has occurred:

7 (a) The funds to pay in full and discharge the security interest have been provided
8 to the secured party in the form of a cashier's check, certified check, or wire
9 transfer; or

10 (b) The debt has been paid to a secured party who is no longer in existence or has
11 failed to file the necessary documents to discharge the lien.

12 (2) If payment in full has been made under subsection (1)(a) of this section, the
13 discharge of the lien shall be made not later than ten (10) days from the receipt of
14 the payment.

15 (3) When a security interest has been paid in full and a termination statement or
16 discharge has not been filed, the debtor may petition the Circuit Court in the county
17 of the debtor's residence to order the discharge of the security interest. The debtor
18 shall present written evidence to the Circuit Court that the security interest has been
19 paid in full. If the evidence presented to the Circuit Court proves to the court's
20 satisfaction that the security interest has been paid in full, the court shall order the
21 county clerk to note the termination on the title and to remove the lien from the
22 Automated Vehicle Information System (AVIS). A copy of the court's order shall
23 immediately be sent to the county clerk in the county where the security interest was
24 originally filed and the county clerk shall discharge the security interest and remove
25 the lien information from AVIS in accordance with the provisions of this section.

26 (4) Whenever a security interest has been discharged, other than by proceedings under
27 Part 6 of Article 9 of KRS Chapter 355 or similar proceedings, the secured party

1 shall:

2 *(a)* Deliver an authenticated termination statement in the manner required by KRS
3 355.9-513 and 186A.195 to the county clerk of the county in which the title
4 lien statement was submitted; *or*

5 *(b) Have a county clerk from another county submit by fax or other form of*
6 *electronic communication available and acceptable to both sender and*
7 *recipient, and verified verbally or by electronically assigned identification,*
8 *as being from the sending clerk, and which is able to be copied to an*
9 *electronic or paper file, on that county clerk's letterhead, an authenticated*
10 *termination statement in the manner required by KRS 355.9-513 and*
11 *186A.195 to the county clerk of the county in which the title lien statement*
12 *was submitted. The county clerk, upon receipt of the authenticated*
13 *termination statement in the manner prescribed under this paragraph, shall*
14 *verify the legitimacy of the document*.

15 The secured party shall also deliver a copy of the termination statement to the
16 debtor or the debtor's transferee. For failure to file the termination statement within
17 the allowable time, the secured party shall be subject to the penalty provided in
18 KRS 186.990(1). Except as provided in subsection (3) of this section, within five
19 (5) days after the receipt of such documents, the county clerk shall note the filing in
20 the index, in language prescribed by the cabinet, that the termination statement has
21 been filed. Upon presentation of the owner's title showing a security interest to the
22 county clerk where the termination statement was submitted, and with the copy of
23 the termination statement submitted by the secured party, the clerk shall discharge
24 the security interest by noting on the title that the termination statement has been
25 filed and place the seal of the county clerk thereon. The clerk shall return the
26 owner's title to the owner. The county clerk shall then file the termination statement
27 in the place from which the title lien statement was removed. Termination

1 statements shall be retained in the clerk's files for a period of two (2) years
2 subsequent to the date of filing a statement, at which time they may be destroyed.
3 The fee for these services are included in the provisions of KRS 186A.190.
4 (5) Upon presentation of an owner's title showing a security interest to the county clerk
5 of a county where the termination statement was not delivered, the county clerk
6 shall access the automated system to determine whether a record of termination of
7 the security interest has been entered into the automated system by the county clerk
8 where the termination statement was delivered by the secured party as provided in
9 KRS 186A.210. If a record of termination has been entered into the automated
10 system, the county clerk of the county where the termination statement was not
11 delivered, shall note the discharge of the security interest on the certificate of title
12 by noting that the termination statement has been delivered, the county where it was
13 delivered, and placing the seal of the county clerk thereon and may rely on the
14 automated system to do so. If a record of termination has not been entered into the
15 automated system, the county clerk of the county other than where the termination
16 statement was delivered shall not make any notation upon the certificate of title that
17 the security interest has been discharged or that a termination statement has been
18 delivered to the county where the title lien statement was submitted.
19 (6) Whenever any secured party repossesses a vehicle titled in Kentucky, for which a
20 security interest is in existence at the time of repossession, and disposes of the
21 vehicle pursuant to the provisions of KRS Chapter 355, the secured party shall
22 present, within fifteen (15) days after such disposition, the vehicle's license plate if
23 the plate has not been retained by the previous owner, an affidavit in a form
24 prescribed by the department, proof of notification of all interested parties pursuant
25 to KRS 186A.190 and 355.9-611, and a termination statement or proof that a
26 termination statement has been filed. The new owner shall pay to the county clerk
27 all applicable fees for titling and transferring the vehicle into his or her name. Upon

1 receipt of such documents, the county clerk who issued the lien shall then omit from
2 the title he makes application for any information relating to the security interest
3 under which the vehicle was repossessed or any security interest subordinate
4 thereto. However, any security interest, as shown by such title which is superior to
5 the one under which the vehicle was repossessed, shall be shown on the title issued
6 by the clerk unless the prior secured party has discharged the security interest in the
7 clerk's office or proof of termination is submitted, if the prior security interest was
8 discharged in another clerk's office.
9 (7) Whenever any vehicle brought into Kentucky is required to be titled and the vehicle
10 is then subject to a security interest in another state as shown by the out-of-state
11 documents presented to the clerk, the county clerk is prohibited from processing the
12 application for title on the vehicle unless the owner obtains from the secured party a
13 financing statement or title lien statement and presents same to the clerk along with
14 the fees required in KRS 186A.190. The clerk shall note the out-of-state security
15 interest on the certificate of title. This provision does not apply to vehicles required
16 to be registered in Kentucky under forced registration provisions under KRS
17 186.145.
18 (8) The fees provided for in this section are in addition to any state fee provided for by
19 law.
20 (9) Any person violating any provision of this section or any person refusing to
21 surrender a certificate of title registration and ownership or transfer certificate upon
22 request of any person entitled thereto, is subject to the penalties provided in
23 subsection (1) of KRS 186.990.
24 (10) The county clerk is prohibited from noting any security interest on a certificate of
25 title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of
26 title therefor is presented to him which has all the spaces provided thereon for
27 noting security interests fully exhausted. The owner is responsible for ensuring that

1 a discharge is noted on the certificate of title for each security interest and then a
2 duplicate title as provided for in KRS 186A.180 shall be obtained from the clerk by
3 the owner of the vehicle.
4 (11) Security interests in vehicles sold to or owned by residents of other states shall be
5 perfected in the state of the nonresident and repossession of the vehicle shall be
6 taken pursuant to the laws of that state, unless:
7 (a) The vehicle is principally operated in Kentucky;
8 (b) The vehicle is properly titled in Kentucky under KRS Chapter 186A; and
9 (c) The security interest is authorized to be noted on the certificate of title by the
10 county clerk under KRS Chapter 186A.
11 ***(12) A county clerk who accepts an authenticated termination statement and complies***
12 ***with the verification requirements of subsection (4)(b) of this section shall be held***
13 ***harmless from any liability arising from fraudulent termination statements.***

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 1 APRIL 2016