



Ohio Revised Code

Section 4505.13 Security interests - automated title processing system.

Effective: September 16, 2004

Legislation: House Bill 230 - 125th General Assembly

(A)(1) Chapter 1309. and section 1701.66 of the Revised Code do not permit or require the deposit, filing, or other record of a security interest covering a motor vehicle, except as provided in division (A)(2) of this section.

(2) Chapter 1309. of the Revised Code applies to a security interest in a motor vehicle held as inventory for sale by a dealer. The security interest has priority over creditors of the dealer as provided in Chapter 1309. of the Revised Code without notation of the security interest on a certificate of title, without entry of a notation of the security interest into the automated title processing system if a physical certificate of title for the motor vehicle has not been issued, or without the retention of a manufacturer's or importer's certificate.

(B) Subject to division (A) of this section, any security agreement covering a security interest in a motor vehicle, if a notation of the agreement has been made by a clerk of a court of common pleas on the face of the certificate of title or the clerk has entered a notation of the agreement into the automated title processing system and a physical certificate of title for the motor vehicle has not been issued, is valid as against the creditors of the debtor, whether armed with process or not, and against subsequent purchasers, secured parties, and other lienholders or claimants. All security interests, liens, mortgages, and encumbrances entered into the automated title processing system in relation to a particular certificate of title, regardless of whether a physical certificate of title is issued, take priority according to the order of time in which they are entered into the automated title processing system by the clerk. Exposure for sale of any motor vehicle by its owner, with the knowledge or with the knowledge and consent of the holder of any security interest, lien, mortgage, or encumbrance on it, does not render that security interest, lien, mortgage, or encumbrance ineffective as against the creditors of that owner, or against holders of subsequent security interests, liens, mortgages, or encumbrances upon that motor vehicle.

The secured party, upon presentation of evidence of a security interest to a clerk of a court of common pleas, together with the certificate of title if a physical certificate of title for the motor



vehicle exists, and the fee prescribed by section 4505.09 of the Revised Code, may have a notation of the security interest made. Unless the secured party specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title, the clerk shall issue, over the clerk's signature and seal of office, a new original certificate of title from the automated title processing records that indicates the security interest and the date of the security interest.

If a security interest is fully discharged as a result of its holder's receipt of good funds in the correct amount and if the holder holds a physical certificate of title, the holder shall note the discharge of the security interest on the face of the certificate of title over the holder's signature, or over the holder's signature on a form prescribed by the registrar of motor vehicles when there is no space for the discharge on the face of the certificate of title. Except as otherwise provided in this section, prior to delivering the certificate of title to the owner, the holder or the holder's agent shall convey the certificate of title or a separate statement of the discharge of the security interest to a clerk. The conveyance shall occur not more than seven business days after the date good funds in the correct amount to fully discharge the security interest have been credited to an account of the holder, provided the holder has been provided accurate information concerning the motor vehicle.

Conveyance of the certificate of title or separate statement of the discharge within the required seven business days may be indicated by postmark or receipt by a clerk within that period, or, in the case of a written confirmation that is sent electronically as provided in division (C)(1) of this section, by the date of the electronic mail or other electronic communication. If the discharge of the security interest appears to be genuine, the clerk shall note the cancellation of the security interest on the face of the certificate of title, if it was so conveyed, and note it in the automated title processing system.

If a security interest is fully discharged as a result of its holder's receipt of good funds in the correct amount and the holder does not hold a physical certificate of title, when the holder notifies a clerk of the discharge of its security interest, the holder at that time also may request the clerk to issue a physical certificate of title to the vehicle. The request shall specify whether the clerk is to send the certificate of title directly to the owner or to the holder or the holder's agent for transmission to the owner. If such a request is made, the clerk shall issue a physical certificate of title and send it to the specified person.



The clerk shall not honor such a request for a physical certificate of title if it is not made by the holder at the same time as the holder's notification to the clerk of the discharge of its security interest.

(C)(1) In all cases, a secured party may choose to present a clerk with evidence of a security interest via written confirmation through electronic means, and the clerk shall enter the security interest into the automated title processing system. A secured party also may choose to notify a clerk of the discharge of its security interest via electronic means, and the clerk shall enter the cancellation into the automated title processing system.

(2) In the case of a security interest that is being satisfied by a dealer to whom a certificate of title is being transferred, the cancellation of the security interest shall occur during the course of the transfer. The dealer shall submit a discharge request to the secured party. A discharge request shall include good funds in the correct amount to fully discharge the security interest and accurate information concerning the motor vehicle.

(3)(a) Upon receiving a discharge request that complies with division (C)(2) of this section, if the current automated title processing system record indicates that a physical title exists for that motor vehicle, a secured party shall convey the physical certificate of title, with the discharge of the security interest noted on its face, to the dealer within seven business days after the date good funds in the correct amount to fully discharge the security interest have been credited to an account of the secured party.

If a secured party is unable to convey to the dealer the physical certificate of title within the required seven business days, the secured party instead shall convey to the dealer an affidavit stating that the security interest has been discharged, together with payment for a duplicate certificate of title, within that period. If the current automated title processing system record for a motor vehicle indicates that an electronic title exists for that motor vehicle, the secured party shall convey to the dealer within the required seven business days written confirmation that the security interest has been satisfied.

(b) Conveyance of a physical certificate of title, or affidavit and required payment, or written confirmation that the security interest has been satisfied from a secured party to a dealer under the



circumstances described in division (C)(3)(a) of this section within the required seven business days may be indicated by a postmark within that period or, in the case of a written confirmation that is sent electronically, the date of the electronic mail or other electronic communication.

(4) A secured party is liable to a dealer for a late fee of ten dollars per day for each physical certificate of title, or affidavit and required payment, or written confirmation that the security interest has been satisfied that is conveyed to the dealer more than seven business days but less than twenty-one days after the date specified in division (C)(3)(a) of this section and, from then on, twenty-five dollars per day until the physical certificate of title, or affidavit and required payment, or written confirmation that the security interest has been satisfied is conveyed to the dealer.

(D) Notwithstanding any provision of Chapter 1310. of the Revised Code or of any other law, the lease of a motor vehicle or trailer does not constitute a conditional sale or create a security interest merely because the lease agreement permits or requires the lessor, at the end of the lease term, to adjust the rental price to either a higher or a lower amount by reference to the amount the lessor realizes upon the sale or other disposition of the motor vehicle or trailer.

(E) If a physical certificate of title has not been issued for a motor vehicle and all the security interests relating to that motor vehicle have been discharged, the owner of the motor vehicle may obtain a physical certificate of title from the clerk of any court of common pleas upon payment of the fee specified in section 4505.09 of the Revised Code.

(F) If a clerk of a court of common pleas, other than the clerk of the court of common pleas of the county in which the owner of a motor vehicle resides, enters a notation of the existence of, or the cancellation of, a security interest relating to the motor vehicle, the clerk shall transmit the data relating to the notation to the automated title processing system.

(G) The registrar of motor vehicles, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the electronic transmission of security interest and other information under this section. In adopting the rules, the registrar shall confer with the clerks of the courts of common pleas.

(H) As used in this section:



- (1) "Accurate information" means the make and model of the motor vehicle, its vehicle identification number, and the name and address of its owner as they appear on the certificate of title that is to be conveyed.
- (2) "Dealer" has the same meaning as in section 4517.01 of the Revised Code.
- (3) "Good funds" includes cash, or a wire transfer, cashier's check, certified check, draft, money order, or teller's check issued by an insured financial institution, or a dealer's check for which the secured party has received funds that are available for withdrawal pursuant to "Availability of Funds and Collection of Checks (Regulation CC)," 12 C.F.R. 229.
- (4) "Inventory" has the same meaning as in section 1309.102 of the Revised Code.
- (5) "Electronic certificate of title" means an electronic record stored in the automated title processing system that established ownership of a motor vehicle, as well as any security interest that exists in that motor vehicle.
- (6) "Written confirmation" means a communication from a secured party to a motor vehicle dealer regarding the secured party's security interest in a motor vehicle. A written confirmation may be either a physical document or an electronic communication such as electronic mail. Both types of written confirmation may be conveyed under this section.