

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 485

96TH GENERAL ASSEMBLY

2012

4504L.03T

AN ACT

To repeal sections 301.600, 306.400, 400.9-311, 430.020, 430.082, and 430.240, RSMo, and to enact in lieu thereof six new sections relating to statutory liens against personalty.

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

Section A. Sections 301.600, 306.400, 400.9-311, 430.020, 430.082, and
2 430.240, RSMo, are repealed and six new sections enacted in lieu thereof, to be
3 known as sections 301.600, 306.400, 400.9-311, 430.020, 430.082, and 430.240, to
4 read as follows:

301.600. 1. Unless excepted by section 301.650, a lien or encumbrance on a
2 motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent
3 transferees or lienholders of the motor vehicle or trailer who took without knowledge
4 of the lien or encumbrance unless the lien or encumbrance is perfected as provided
5 in sections 301.600 to 301.660.

6 2. Subject to the provisions of section 301.620, a lien or encumbrance on a
7 motor vehicle or trailer is perfected by the delivery to the director of revenue of a
8 notice of a lien in a format as prescribed by the director of revenue. The notice of lien
9 is perfected as of the time of its creation if the delivery of such notice to the director
10 of revenue is completed within thirty days thereafter, otherwise as of the time of the
11 delivery. A notice of lien shall contain the name and address of the owner of the
12 motor vehicle or trailer and the secured party, a description of the motor vehicle or
13 trailer, including the vehicle identification number, and such other information as the
14 department of revenue may prescribe. A notice of lien substantially complying with
15 the requirements of this section is effective even though it contains minor errors
16 which are not seriously misleading. Provided the lienholder submits complete and

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

17 legible documents, the director of revenue shall mail confirmation or electronically
18 confirm receipt of such notice of lien to the lienholder as soon as possible, but no later
19 than fifteen business days after the filing of the notice of lien.

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

24 4. To perfect a subordinate lien, the notice of lien must be accompanied by the
25 documents required to be delivered to the director pursuant to subdivision (3) of
26 section 301.620.

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

41 6. If a motor vehicle or trailer is subject to a lien or encumbrance when
42 brought into this state, the validity and effect of the lien or encumbrance is
43 determined by the law of the jurisdiction where the motor vehicle or trailer was when
44 the lien or encumbrance attached, subject to the following:

45 (1) If the parties understood at the time the lien or encumbrance attached
46 that the motor vehicle or trailer would be kept in this state and it was brought into
47 this state within thirty days thereafter for purposes other than transportation through
48 this state, the validity and effect of the lien or encumbrance in this state is
49 determined by the law of this state;

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

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

56 (b) If the name of the lienholder is not shown on an existing certificate of title

57 or ownership issued by that jurisdiction, the lien or encumbrance continues perfected
58 in this state three months after a first certificate of ownership of the motor vehicle
59 or trailer is issued in this state, and also thereafter if, within the three-month period,
60 it is perfected in this state. The lien or encumbrance may also be perfected in this
61 state after the expiration of the three-month period; in that case perfection dates from
62 the time of perfection in this state;

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

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

72 7. By rules and regulations, the director of revenue shall establish a security
73 procedure for the purpose of verifying that an electronic notice of lien or notice of
74 satisfaction of a lien on a motor vehicle or trailer given as permitted in sections
75 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of
76 confirmation of ownership and perfection of a lien given as required in section 301.610
77 is that of the director of revenue, and detecting error in the transmission or the
78 content of any such notice. A security procedure may require the use of algorithms
79 or other codes, identifying words or numbers, encryption, callback procedures or
80 similar security devices. Comparison of a signature on a communication with an
81 authorized 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,
2 vessel, and watercraft shall have the same meanings given them in section 306.010,
3 and the term outboard motor shall include outboard motors governed by section
4 306.530.

5 2. Unless excepted by section 306.425, a lien or encumbrance on an outboard
6 motor, motorboat, vessel, or watercraft shall not be valid against subsequent
7 transferees or lienholders of the outboard motor, motorboat, vessel or watercraft, who
8 took without knowledge of the lien or encumbrance unless the lien or encumbrance
9 is perfected as provided in sections 306.400 to 306.430.

10 3. A lien or encumbrance on an outboard motor, motorboat, vessel or
11 watercraft is perfected by the delivery to the director of revenue of a notice of lien in
12 a format as prescribed by the director. Such lien or encumbrance shall be perfected
13 as of the time of its creation if the delivery of the items required in this subsection to
14 the director of revenue is completed within thirty days thereafter, otherwise such lien
15 or encumbrance shall be perfected as of the time of the delivery. A notice of lien shall

16 contain the name and address of the owner of the outboard motor, motorboat, vessel
17 or watercraft and the secured party, a description of the outboard motor, motorboat,
18 vessel or watercraft motor, including any identification number, and such other
19 information as the department of revenue may prescribe. A notice of lien
20 substantially complying with the requirements of this section is effective even though
21 it contains minor errors which are not seriously misleading. Provided the lienholder
22 submits complete and legible documents, the director of revenue shall mail
23 confirmation or electronically confirm receipt of each notice of lien to the lienholder
24 as soon as possible, but no later than fifteen business days after the filing of the
25 notice of lien.

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

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

44 6. Whether an outboard motor, motorboat, vessel, or watercraft is subject to
45 a lien or encumbrance shall be determined by the laws of the jurisdiction where the
46 outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance
47 attached, subject to the following:

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

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

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

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

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

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

73 7. The director of revenue shall by rules and regulations establish a security
74 procedure to verify that an electronic notice or lien or notice of satisfaction of a lien
75 on an outboard motor, motorboat, vessel or watercraft given pursuant to sections
76 306.400 to 306.440 is that of the lienholder, to verify that an electronic notice of
77 confirmation of ownership and perfection of a lien given pursuant to section 306.410
78 is that of the director of revenue and to detect error in the transmission or the content
79 of any such notice. Such a security procedure may require the use of algorithms or
80 other codes, identifying words or numbers, encryption, callback procedures or similar
81 security devices. Comparison of a signature on a communication with an authorized
82 specimen signature shall not by itself constitute a security procedure.

2 400.9-311. (a) Except as otherwise provided in subsection (d), the filing
3 of a financing statement is not necessary or effective to perfect a security interest
4 in property subject to:

5 (1) A statute, regulation, or treaty of the United States whose
6 requirements for a security interest's obtaining priority over the rights of a lien
7 creditor with respect to the property preempt section 400.9-310(a);

8 (2) Sections 301.600 to 301.661, section 700.350, and section 400.2A-304;
9 or

10 (3) A certificate-of-title statute of another jurisdiction which provides for
11 a security interest to be indicated on the certificate as a condition or result of the
12 security interest's obtaining priority over the rights of a lien creditor with respect
to the property.

13 (b) Compliance with the requirements of a statute, regulation, or treaty
14 described in subsection (a) for obtaining priority over the rights of a lien creditor
15 is equivalent to the filing of a financing statement under this article. Except as
16 otherwise provided in subsection (d) and sections 400.9-313 and 400.9-316(d) and
17 (e) for goods covered by a certificate of title, a security interest in property subject
18 to a statute, regulation, or treaty described in subsection (a) may be perfected
19 only by compliance with those requirements, and a security interest so perfected
20 remains perfected notwithstanding a change in the use or transfer of possession
21 of the collateral.

22 (c) Except as otherwise provided in subsection (d) and section 400.9-316(d)
23 and (e), duration and renewal of perfection of a security interest perfected by
24 compliance with the requirements prescribed by a statute, regulation, or treaty
25 described in subsection (a) are governed by the statute, regulation, or treaty. In
26 other respects, the security interest is subject to this article.

27 (d) During any period in which collateral is inventory held for sale or
28 lease by a person or leased by that person as lessor and that person is in the
29 business of selling [or leasing] goods of that kind, this section does not apply to
30 a security interest in that collateral created by that person [as debtor].

430.020. Every person who shall keep or store any vehicle[,] or part or
2 equipment thereof, shall, for the amount due therefor, have a lien; and every
3 person who furnishes labor or material on any vehicle [or aircraft,] or part or
4 equipment thereof, who shall obtain a written memorandum of the work or
5 material furnished, or to be furnished, signed by the owner of the vehicle [or
6 aircraft], or part or equipment thereof, **and every person who furnishes**
7 **labor or material on any aircraft or part or equipment thereof, who**
8 **shall obtain a written memorandum of the work or material furnished,**
9 **or to be furnished, signed by the owner, authorized agent of the owner,**
10 **or person in lawful possession of the aircraft or part or equipment**
11 **thereof,** shall have a lien for the amount of such work or material as is ordered
12 or stated in such written memorandum. Such liens shall be on the vehicle or
13 aircraft, or part or equipment thereof, as shall be kept or stored, or be placed in
14 the possession of the person furnishing the labor or material; provided, however,
15 the person furnishing the labor or material **on the aircraft or part or**
16 **equipment thereof,** may retain the lien after surrendering possession of the
17 aircraft or part or equipment thereof by filing a statement in the office of the
18 county recorder of the county where the owner of the aircraft or part or
19 equipment thereof resides, if known to the claimant, and in the office of the
20 county recorder of the county where the labor or material was furnished. Such

21 statement shall be filed within [thirty] **one hundred eighty** days after
22 surrendering possession of the aircraft or part or equipment thereof and shall
23 state the claimant's name and address, the items on account, the name of the
24 owner and a description of the property, and shall not bind a bona fide purchaser
25 unless said lien has also been filed with the Federal Aviation Administration
26 Aircraft Registry.

430.082. 1. Every person expending labor, services, skill or material upon
2 any motor vehicle or trailer, as defined in chapter 301, vessel, as defined in
3 chapter 306, outboard motor [or], **or aircraft, or part or equipment of an**
4 **aircraft**, at a written request of its owner, authorized agent of the owner, or
5 person in lawful possession thereof, or who provides storage for a motor vehicle,
6 trailer, outboard motor or vessel, at the written request of its owner, authorized
7 agent of the owner, or person in lawful possession thereof, or at the written
8 request of a peace officer in lieu of the owner or owner's agent, where such owner
9 or agent is not available to request storage thereof, shall, where the maximum
10 amount to be charged for labor, services, skill or material has been stated as part
11 of the written request or the daily charge for storage has been stated as part of
12 the written request, have a lien upon the chattel beginning upon the date of
13 commencement of the expenditure of labor, services, skill, materials or storage for
14 the actual value of all the expenditure of labor, services, skill, materials or
15 storage until the possession of that chattel is voluntarily relinquished to the
16 owner, authorized agent, or one entitled to possession thereof. The person
17 furnishing labor, services, skill or material **upon an aircraft or part or**
18 **equipment thereof**, may retain the lien after surrendering possession of the
19 aircraft or part or equipment thereof, by filing a statement in the office of the
20 county recorder of the county where the owner of the aircraft or part or
21 equipment thereof, resides, if known to the claimant, and in the office of the
22 county recorder of the county where the claimant performed the services. Such
23 statement shall be filed within [thirty] **one hundred eighty** days after
24 surrendering possession of the aircraft or part or equipment thereof and shall
25 state the claimant's name and address, the items on account, the name of the
26 owner and a description of the property, and shall not bind a bona fide purchaser
27 unless the lien has also been filed with the Federal Aviation Administration
28 Aircraft Registry.

29 2. If the chattel is not redeemed within forty-five days of the completion
30 of the requested labor, services, skill or material, the lienholder may apply to the
31 director of revenue for a certificate of ownership or certificate of title.

32 3. If the charges are for storage or the service of towing the motor vehicle,

33 trailer, outboard motor or vessel, and the chattel has not been redeemed within
34 forty-five days after the charges for storage commenced, the lienholder shall
35 notify by certified mail, postage prepaid, the owner and any lienholders of record
36 other than the person making the notification, at the person's last known address
37 that application for a lien title will be made unless the owner or lienholder within
38 thirty days makes satisfactory arrangements with the person holding the chattel
39 for payment of storage or service towing charges, if any, or makes satisfactory
40 arrangements with the lienholder for paying such charges or for continued
41 storage of the chattel if desired. Thirty days after the notification has been
42 mailed and the chattel is unredeemed, or the notice has been returned marked
43 "not forwardable" or "addressee unknown", and no satisfactory arrangement has
44 been made with the lienholder for payment or continued storage, the lienholder
45 may apply to the director of revenue for a certificate of ownership or certificate
46 of title as provided in this section.

47 4. The application shall be accompanied by:

48 (1) The original or a conformed or photostatic copy of the written request
49 of the owner or the owner's agent or of a peace officer with the maximum amount
50 to be charged stated therein;

51 (2) An affidavit from the lienholder that written notice was provided to
52 all owners and lienholders of the applicants' intent to apply for a certificate of
53 ownership and the owner has defaulted on payment of labor, services, skill or
54 material and that payment is forty-five days past due, or that owner has
55 defaulted on payment or has failed to make satisfactory arrangements for
56 continued storage of the chattel for thirty days since notification of intent to make
57 application for a certificate of ownership or certificate of title. The affidavit shall
58 be accompanied by a copy of the thirty-day notice given by certified mail to any
59 owner and person holding a valid security interest and a copy of the certified mail
60 receipt indicating that the owner and lienholder of record was sent a notice as
61 required in this section;

62 (3) A statement of the actual value of the expenditure of labor, services,
63 skill or material, or the amount of storage due on the date of application for a
64 certificate of ownership or certificate of title, and the amount which is unpaid;
65 and

66 (4) A fee of ten dollars.

67 5. If the director is satisfied with the genuineness of the application, proof
68 of lienholder notification in the form of a certified mail receipt, and supporting
69 documents, and if no lienholder or the owner has redeemed the chattel or no
70 satisfactory arrangement has been made concerning payment or continuation of

71 storage, and if no owner or lienholder has informed the director that the owner
72 or lienholder demands a hearing as provided in this section, the director shall
73 issue, in the same manner as a repossessed title is issued, a certificate of
74 ownership or certificate of title to the applicant which shall clearly be captioned
75 "Lien Title".

76 6. Upon receipt of a lien title, the holder shall within ten days begin
77 proceedings to sell the chattel as prescribed in section 430.100.

78 7. The provisions of section 430.110 shall apply to the disposition of
79 proceeds, and the lienholder shall also be entitled to any actual and necessary
80 expenses incurred in obtaining the lien title, including, but not limited to, court
81 costs and reasonable attorney's fees.

430.240. No such lien shall be effective, however, unless a written notice
2 containing the name and address of the injured person, the date of the accident,
3 the name and location of the hospital and the name of the person or persons, firm
4 or firms, corporation or corporations alleged to be liable to the injured party for
5 the injuries received, shall be sent by **certified [registered]** mail with return
6 receipt requested, to the person or persons, firm or firms, corporation or
7 corporations, if known, alleged to be liable to the injured party, if known, for the
8 injuries sustained prior to the payment of any moneys to such injured person, his
9 attorneys or legal representative, as compensation for such injuries. Such
10 hospital shall send by **certified [registered]** mail with return receipt requested
11 a copy of such notice to any insurance carrier, if known, which has insured such
12 person, firm or corporation against such liability.

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