

FIRST REGULAR SESSION

SENATE BILL NO. 291

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time January 21, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1350S.011

AN ACT

To repeal section 700.370, section 301.640 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 301.640 as enacted by senate bill no. 82, ninety-fourth general assembly, first regular session, section 306.420 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 306.420 as enacted by house bill no. 2008 merged with senate bill no. 895, ninety-first general assembly, second regular session, RSMo, and to enact in lieu thereof four new sections relating to electronic lien release, with existing penalty provisions.

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

Section A. Section 700.370, section 301.640 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 301.640 as enacted by senate bill no. 82, ninety-fourth general assembly, first regular session, section 306.420 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 306.420 as enacted by house bill no. 2008 merged with senate bill no. 895, ninety-first general assembly, second regular session, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 32.096, 301.640, 306.420, and 700.370, to read as follows:

32.096. 1. The director of revenue may adopt rules and regulations that authorize a lienholder to electronically release a lien on property titled with the department of revenue. Only liens filed electronically with the department may be released electronically. Once the lien has been released, the department must electronically confirm receipt of such release.

2. Any rule or portion of a rule, as that term is defined in section

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

8 **536.010 that is created under the authority delegated in this section**
9 **shall become effective only if it complies with and is subject to all of**
10 **the provisions of chapter 536, and, if applicable, section 536.028. This**
11 **section and chapter 536 are nonseverable and if any of the powers**
12 **vested with the general assembly pursuant to chapter 536, to review, to**
13 **delay the effective date, or to disapprove and annul a rule are**
14 **subsequently held unconstitutional, then the grant of rulemaking**
15 **authority and any rule proposed or adopted after August 28, 2015, shall**
16 **be invalid and void.**

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 release the lien or
3 encumbrance on the certificate [or], **on a separate document, or electronically**
4 **under section 32.096 and any rules and regulations adopted thereunder,**
5 and mail or deliver the certificate or a separate document to the owner or any
6 person who delivers to the lienholder an authorization from the owner to receive
7 the certificate or such documentation. The release on the certificate or separate
8 document shall be notarized. Each perfected subordinate lienholder, if any, shall
9 release such lien or encumbrance as provided in this section for the first
10 lienholder. The owner may cause the certificate to be mailed or delivered to the
11 director of revenue, who shall issue a new certificate of ownership upon
12 application and payment of the required fee. A lien or encumbrance shall be
13 satisfied for the purposes of this section when a lienholder receives payment in
14 full in the form of certified funds, as defined in section 381.410, or when the
15 lienholder receives payment in full electronically or by way of electronic funds
16 transfer, whichever first occurs.

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

27 3. If the purchase price of a motor vehicle or trailer did not exceed six

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

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

55 5. Any person who knowingly and intentionally sends in a separate
56 document releasing a lien of another without authority to do so shall be guilty of
57 a class D felony.

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2 encumbrance of a motor vehicle or trailer, the lienholder shall release the lien or
3 encumbrance on the certificate [or], **on** a separate document, **or electronically**
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5 and mail or deliver the certificate or a separate document to the owner or any
6 person who delivers to the lienholder an authorization from the owner to receive

7 the certificate or such documentation. The release on the certificate or separate
8 document shall be notarized. Each perfected subordinate lienholder, if any, shall
9 release such lien or encumbrance as provided in this section for the first
10 lienholder. The owner may cause the certificate to be mailed or delivered to the
11 director of revenue, who shall issue a new certificate of ownership upon
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19 days after any release of a lien and provide the director with the most current
20 address of the owner or any person who delivers to the lienholder an
21 authorization from the owner to receive the certificate or such
22 documentation. The director shall note such release on the electronic certificate
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25 authorization from the owner to receive the certificate or such documentation
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27 3. If the purchase price of a motor vehicle or trailer did not exceed six
28 thousand dollars at the time of purchase, a lien or encumbrance which was not
29 perfected by a motor vehicle financing corporation whose net worth exceeds one
30 hundred million dollars, or a depository institution, shall be considered satisfied
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35 words "subject to future advances".

36 4. Any lienholder who fails to timely comply with subsection 1 or 2 of this
37 section shall pay to the person or persons satisfying the lien or encumbrance
38 liquidated damages up to a maximum of two thousand five hundred dollars for
39 each lien. Liquidated damages shall be five hundred dollars if the lienholder does
40 not comply within five business days after satisfaction of the lien or
41 encumbrance. Liquidated damages shall be one thousand dollars if the lienholder
42 does not comply within ten business days after satisfaction of the lien or

43 encumbrance. Liquidated damages shall be two thousand dollars if the lienholder
44 does not comply within fifteen business days after satisfaction of the lien or
45 encumbrance. Liquidated damages shall be two thousand five hundred dollars
46 if the lienholder does not comply within twenty business days after satisfaction
47 of the lien or encumbrance. If delivery of the certificate or other lien release is
48 made by mail, the delivery date is the date of the postmark for purposes of this
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52 included, unless it is a Saturday, Sunday, or a legal holiday, in which event the
53 period runs until the end of the next day that is not a Saturday, Sunday, or legal
54 holiday.

55 5. Any person who knowingly and intentionally sends in a separate
56 document releasing a lien of another without authority to do so shall be guilty of
57 a class C felony.

306.420. 1. Upon the satisfaction of a lien or encumbrance on an outboard
2 motor, motorboat, vessel, or watercraft, the lienholder shall within ten days
3 execute a release of his or her lien or encumbrance, on the certificate [or], on a
4 separate document, **or electronically under section 32.096 and any rules**
5 **and regulations adopted thereunder**, and mail or deliver the certificate or
6 separate document to the owner or any person who delivers to the lienholder an
7 authorization from the owner to receive the documentation. The release on the
8 certificate or separate document shall be notarized. Each perfected subordinate
9 lienholder, if any, shall release such lien or encumbrance as provided in this
10 section for the first lienholder. The owner may cause the certificate of title, the
11 release, and the required fee to be mailed or delivered to the director of revenue,
12 who shall release the lienholder's rights on the certificate and issue a new
13 certificate of title.

14 2. If the electronic certificate of title is in the possession of the director
15 of revenue, the lienholder shall notify the director within ten business days of any
16 release of lien and provide the director with the most current address of the
17 owner. The director shall note such release on the electronic certificate and if no
18 other lien exists, the director shall mail or deliver the certificate free of any lien
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16 release of lien and provide the director with the most current address of the
17 owner. The director shall note such release on the electronic certificate and if no
18 other lien exists, the director shall mail or deliver the certificate free of any lien
19 to the owner.

20 3. Any person who knowingly and intentionally sends in a separate
21 document releasing a lien of another without authority to do so shall be guilty of
22 a class C felony.

700.370. 1. Upon the satisfaction of a lien or encumbrance on a
2 manufactured home, the lienholder shall, within ten days after demand, release
3 the lien or encumbrance on the certificate [or], **on** a separate document, **or**
4 **electronically under section 32.096 and any rules and regulations**
5 **adopted thereunder**, and mail or deliver the certificate or separate document
6 to the owner or any person who delivers to the lienholder an authorization from
7 the owner to receive the certificate or separate document. Each perfected
8 subordinate lienholder, if any, shall release such lien or encumbrance as provided
9 in this section for the first lienholder. The release on the certificate or separate
10 document shall be notarized. The owner may cause the certificate of title, the
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17 address of the owner. The director shall note such release on the electronic
18 certificate and if no other lien exists the director shall mail or deliver the
19 certificate free of any lien to the owner.

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