

LD6991761

SENATE BILL NO. 436

Offered January 25, 1994

A BILL to amend and reenact §§ 8.9-302 and 46.2-637 of the Code of Virginia, relating to filings required to perfect certain security interests; issuance of amended motor vehicle titles to show certain security interests.

Patron—Quayle

Referred to the Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That §§ 8.9-302 and 46.2-637 of the Code of Virginia are amended and reenacted as follows:**

§ 8.9-302. When filing is required to perfect security interest; security interests to which filing provisions of this title do not apply.

(1) A financing statement shall be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under § 8.9-305;

(b) a security interest temporarily perfected in instruments or documents without delivery under § 8.9-304 or in proceeds for a twenty-day period under § 8.9-306;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but notation on the certificate of title is required for a motor vehicle or watercraft required to be titled; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in § 8.9-313;

(e) an assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) a security interest of a collecting bank as provided under § 8.4-208 or in securities as provided in § 8.8-321, or arising under Title 8.2 to the extent provided under § 8.9-113 or covered in subsection (3) of this section;

(g) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(h) a motor vehicle security interest for child support arrears pursuant to § 46.2-637.

(2) If the secured party assigns a perfected security interest, no filing under this title is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this title is not necessary or effective to perfect a security interest in property subject to

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this title for filing of the security interest; or

(b) sections 46.2-603 through 46.2-635 and §§ 62.1-186.1 through 62.1-186.24 but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of Part 4 (§ 8.9-401 et seq.) of this title apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection as provided in subsection (2) of § 8.9-103.

(4) Compliance with a statute or treaty described in subsection (3) of this section is equivalent to the filing of a financing statement under this title, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in § 8.9-103 on multiple-state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this title.

(5) The filing provisions of this title do not apply to a security interest in property of any description or any interest therein created by a deed of trust or mortgage made by a public service corporation as defined in § 56-1, but the deed of trust or mortgage shall be recorded and filed in the county or corporation in which such deed of trust or mortgage is required by § 55-96 to be recorded. A secured party may perfect its security interest in property of a public service corporation by filing under §§ 8.9-401 through 8.9-406, in which case no compliance with § 55-96 shall be required, and such security interest shall be perfected as to property otherwise subject to this title.

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60 (6) The filing provisions of this title do not apply to any security interest created in connection with
61 the issuance of any bond, note or other evidence of indebtedness for borrowed money by this
62 Commonwealth or any political subdivision or agency thereof.

63 § 46.2-637. Security interests subsequently created.

64 Security interests, other than those in inventory held for sale, in motor vehicles, trailers, or
65 semitrailers created by the voluntary act of the owner after the original issue of a certificate of title to
66 the owner must be shown on the certificate of title. In such cases, the owner shall file an application
67 with the Department on a form furnished for that purpose, setting forth the security interests and
68 whatever additional information the Department may deem necessary.

69 *The Department of Social Services may create, against any motor vehicle owned by any person in*
70 *arrears in child support payments (i) by ninety days or more or (ii) in an amount exceeding \$5,000, a*
71 *security interest in the amount of such arrearage as may exist by filing with the Department of Motor*
72 *Vehicles a statement of arrears. The Department of Motor Vehicles shall then issue an amended*
73 *certificate of title, and instruct the title holder to destroy any existing certificate of title. The Department*
74 *of Social Services shall serve notice upon the title holder by certified mail, with proof of actual receipt,*
75 *providing an opportunity for a hearing within ten days of receipt of notification and specifying that the*
76 *lien shall be valid and enforceable during the pending of the appeal. Such lien shall be subordinate to a*
77 *purchase money security interest. If satisfied that it is proper for the security interest to be recorded,*
78 *when the certificate of title covering the motor vehicle, trailer, or semitrailer, is surrendered, the*
79 *Department shall issue a new certificate of title, showing security interests in the order of their priority*
80 *according to the date of the filing of the application. For the purpose of recording a subsequent security*
81 *interest, the Commissioner may require any secured party to deliver to him the certificate of title. The*
82 *new certificate shall be sent or delivered to the secured party from whom the prior certificate was*
83 *obtained. Notwithstanding any other provision of law, a security interest in a motor vehicle, trailer, or*
84 *semitrailer which is inventory held for sale shall be perfected only as provided in §§ 8.9-301 through*
85 *8.9-408.*