

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 834**

Introduced by Fischer, 43.

Read first time January 10, 2008

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to certificates of title; to amend section  
2 37-1282, Reissue Revised Statutes of Nebraska, and  
3 section 60-164, Revised Statutes Supplement, 2007; to  
4 change provisions relating to notation of liens; and to  
5 repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 37-1282, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           37-1282 (1) The provisions of article 9, Uniform  
4 Commercial Code, shall not be construed to apply to or to permit  
5 or require the deposit, filing, or other record whatsoever of a  
6 security agreement, conveyance intended to operate as a mortgage,  
7 trust receipt, conditional sales contract, or similar instrument or  
8 any copy of the same covering a motorboat. Any mortgage, conveyance  
9 intended to operate as a security agreement as provided by article  
10 9, Uniform Commercial Code, trust receipt, conditional sales  
11 contract, or other similar instrument covering a motorboat, if  
12 such instrument is accompanied by delivery of such manufacturer's  
13 or importer's certificate and followed by actual and continued  
14 possession of same by the holder of the instrument or, in the  
15 case of a certificate of title, if a notation of same has been  
16 made by the county clerk, the designated county official, or the  
17 Department of Motor Vehicles on the face of the certificate, shall  
18 be valid as against the creditors of the debtor, whether armed with  
19 process or not, and subsequent purchasers, secured parties, and  
20 other lienholders or claimants, but otherwise shall not be valid  
21 against them, except that during any period in which a motorboat is  
22 inventory, as defined in section 9-102, Uniform Commercial Code,  
23 held for sale by a person or corporation that is in the business  
24 of selling motorboats, the filing provisions of article 9, Uniform  
25 Commercial Code, as applied to inventory, shall apply to a security

1 interest in the motorboat created by such person or corporation as  
2 debtor without the notation of lien on the instrument of title.  
3 A buyer at retail from a dealer of any motorboat in the ordinary  
4 course of business shall take the motorboat free of any security  
5 interest.

6 (2) All liens, security agreements, and encumbrances  
7 noted upon a certificate of title shall take priority according to  
8 the order of time in which the same are noted on the certificate  
9 by the county clerk, the designated county official, or the  
10 department. Exposure for sale of any motorboat by the owner thereof  
11 with the knowledge or with the knowledge and consent of the holder  
12 of any lien, security agreement, or encumbrance on the motorboat  
13 shall not render the same void or ineffective as against the  
14 creditors of the owner or holder of subsequent liens, security  
15 agreements, or encumbrances upon the motorboat.

16 (3) Upon presentation of a security agreement, trust  
17 receipt, conditional sales contract, or similar instrument to the  
18 county clerk or designated county official of the county where the  
19 certificate of title was issued or, if issued by the department, to  
20 the department together with the certificate of title and the fee  
21 prescribed by section 37-1287, the holder of such instrument may  
22 have a notation of the lien made on the face of the certificate of  
23 title. The owner of a motorboat may present a valid out-of-state  
24 certificate of title issued to such owner for such motorboat  
25 with a notation of lien on such certificate of title and the

1 prescribed fee to the county clerk, designated county official,  
2 or department and have the notation of lien made on the face of  
3 the new certificate of title issued pursuant to section 37-1278  
4 without presenting a copy of the lien instrument. The county clerk,  
5 the designated county official, or the department shall enter the  
6 notation and the date thereof over the signature of the person  
7 making the notation and the seal of office and shall also note  
8 the lien and the date thereof on the duplicate of the certificate  
9 on file. The county clerk, the designated county official, or the  
10 department shall also indicate by appropriate notation and on such  
11 instrument itself the fact that the lien has been noted on the  
12 certificate of title.

13 (4) The county clerk, the designated county official,  
14 or the department, upon receipt of a lien instrument duly signed  
15 by the owner in the manner prescribed by law governing such lien  
16 instruments together with the fee prescribed for notation of lien,  
17 shall notify the first lienholder to deliver to the county clerk,  
18 the designated county official, or the department, within fifteen  
19 days from the date of notice, the certificate of title to permit  
20 notation of the junior lien and, after notation of the lien, the  
21 county clerk, the designated county official, or the department  
22 shall deliver the certificate of title to the first lienholder.  
23 The holder of a certificate of title who refuses to deliver a  
24 certificate of title to the county clerk, the designated county  
25 official, or the department for the purpose of showing a junior

1 lien on the certificate of title within fifteen days from the date  
2 when notified to do so shall be liable for damages to the junior  
3 lienholder for the amount of damages the junior lienholder suffered  
4 by reason of the holder of the certificate of title refusing to  
5 permit the showing of the lien on the certificate of title.

6 (5) When the lien is discharged, the holder shall, within  
7 fifteen days after payment is received, note a cancellation of the  
8 lien on the face of the certificate of title over his, her, or its  
9 signature and deliver the certificate of title to the county clerk,  
10 the designated county official, or the department which shall note  
11 the cancellation of the lien on the face of the certificate of  
12 title and on the records of the office. If delivered to a county  
13 clerk or designated county official, he or she shall on that day  
14 notify the department which shall note the cancellation on its  
15 records. The county clerk, the designated county official, or the  
16 department shall then return the certificate of title to the owner  
17 or as otherwise directed by the owner. The cancellation of the lien  
18 shall be noted on the certificate of title without charge.

19 (6) Any exchange of information may be accomplished by  
20 the computerized exchange of information or by any other exchange  
21 of electrically, electronically, telephonically, or mechanically  
22 processed information.

23 Sec. 2. Section 60-164, Revised Statutes Supplement,  
24 2007, is amended to read:

25 60-164 (1) Except as provided in section 60-165, the

1 provisions of article 9, Uniform Commercial Code, shall never be  
2 construed to apply to or to permit or require the deposit, filing,  
3 or other record whatsoever of a security agreement, conveyance  
4 intended to operate as a mortgage, trust receipt, conditional sales  
5 contract, or similar instrument or any copy of the same covering a  
6 vehicle. Any mortgage, conveyance intended to operate as a security  
7 agreement as provided by article 9, Uniform Commercial Code, trust  
8 receipt, conditional sales contract, or other similar instrument  
9 covering a vehicle, if such instrument is accompanied by delivery  
10 of such manufacturer's or importer's certificate and followed by  
11 actual and continued possession of the same by the holder of  
12 such instrument or, in the case of a certificate of title, if a  
13 notation of the same has been made by the county clerk, designated  
14 county official, or department on the face thereof, shall be  
15 valid as against the creditors of the debtor, whether armed with  
16 process or not, and subsequent purchasers, secured parties, and  
17 other lienholders or claimants but otherwise shall not be valid  
18 against them, except that during any period in which a vehicle is  
19 inventory, as defined in section 9-102, Uniform Commercial Code,  
20 held for sale by a person or corporation that is required to be  
21 licensed as provided in Chapter 60, article 14, and is in the  
22 business of selling such vehicles, the filing provisions of article  
23 9, Uniform Commercial Code, as applied to inventory, shall apply  
24 to a security interest in such vehicle created by such person  
25 or corporation as debtor without the notation of lien on the

1 instrument of title. A buyer of a vehicle at retail from a dealer  
2 required to be licensed as provided in Chapter 60, article 14,  
3 shall take such vehicle free of any security interest.

4 (2) Subject to subsection (1) of this section, all liens,  
5 security agreements, and encumbrances noted upon a certificate of  
6 title shall take priority according to the order of time in which  
7 the same are noted thereon by the county clerk, designated county  
8 official, or department. Exposure for sale of any vehicle by the  
9 owner thereof with the knowledge or with the knowledge and consent  
10 of the holder of any lien, security agreement, or encumbrance on  
11 such vehicle shall not render the same void or ineffective as  
12 against the creditors of such owner or holder of subsequent liens,  
13 security agreements, or encumbrances upon such vehicle.

14 (3) The holder of a security agreement, trust  
15 receipt, conditional sales contract, or similar instrument,  
16 upon presentation of such instrument to the department, if the  
17 certificate of title was issued by the department, or to any  
18 county clerk or designated county official, together with the  
19 certificate of title and the fee prescribed for notation of  
20 lien, may have a notation of such lien made on the face of such  
21 certificate of title. The owner of a vehicle may present a valid  
22 out-of-state certificate of title issued to such owner for such  
23 vehicle with a notation of lien on such certificate of title and  
24 the prescribed fee to the county clerk, designated county official,  
25 or department and have the notation of lien made on the face of

1 the new certificate of title issued pursuant to section 60-144  
2 without presenting a copy of the lien instrument. The county clerk  
3 or designated county official or the department shall enter the  
4 notation and the date thereof over the signature of such officer  
5 and the official seal. If noted by a county clerk or designated  
6 county official, he or she shall on that day notify the department  
7 which shall note the lien on its records. The county clerk or  
8 designated county official or the department shall also indicate by  
9 appropriate notation and on such instrument itself the fact that  
10 such lien has been noted on the certificate of title.

11 (4) A transaction does not create a sale or a security  
12 interest in a vehicle, other than an all-terrain vehicle or a  
13 minibike, merely because it provides that the rental price is  
14 permitted or required to be adjusted under the agreement either  
15 upward or downward by reference to the amount realized upon sale or  
16 other disposition of the vehicle.

17 (5) The county clerk or designated county official or  
18 the department, upon receipt of a lien instrument duly signed by  
19 the owner in the manner prescribed by law governing such lien  
20 instruments together with the fee prescribed for notation of lien,  
21 shall notify the first lienholder to deliver to the county clerk  
22 or designated county official or the department, within fifteen  
23 days after the date of notice, the certificate of title to permit  
24 notation of such other lien and, after notation of such other lien,  
25 the county clerk or designated county official or the department



1 shall deliver the certificate of title to the first lienholder.  
2 The holder of a certificate of title who refuses to deliver a  
3 certificate of title to the county clerk or designated county  
4 official or the department for the purpose of showing such other  
5 lien on such certificate of title within fifteen days after the  
6 date of notice shall be liable for damages to such other lienholder  
7 for the amount of damages such other lienholder suffered by reason  
8 of the holder of the certificate of title refusing to permit the  
9 showing of such lien on the certificate of title.

10 (6) When a lien is discharged, the holder shall, within  
11 fifteen days after payment is received, note a cancellation of the  
12 lien on the certificate of title over his, her, or its signature  
13 and deliver the certificate of title to the county clerk or  
14 designated county official or the department, which shall note the  
15 cancellation of the lien on the face of the certificate of title  
16 and on the records of such office. If delivered to a county clerk  
17 or designated county official, he or she shall on that day notify  
18 the department which shall note the cancellation on its records.  
19 The county clerk or designated county official or the department  
20 shall then return the certificate of title to the owner or as  
21 otherwise directed by the owner. The cancellation of lien shall be  
22 noted on the certificate of title without charge. If the holder  
23 of the title cannot locate a lienholder, a lien may be discharged  
24 ten years after the date of filing by presenting proof that thirty  
25 days have passed since the mailing of a written notice by certified

1 mail, return receipt requested, to the last-known address of the  
2 lienholder.

3           Sec. 3. Original section 37-1282, Reissue Revised  
4 Statutes of Nebraska, and section 60-164, Revised Statutes  
5 Supplement, 2007, are repealed.