

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 835
HOUSE BILL 564

1 AN ACT TO STRENGTHEN THE MOTOR VEHICLE CERTIFICATE OF TITLE LAWS
2 BY PROVIDING FOR A MANUFACTURER'S CERTIFICATE OF TRANSFER FOR
3 NEW MOTOR VEHICLES AND FOR THE RECORDATION AND PERFECTION OF
4 SECURITY INTERESTS IN VEHICLES.

5
6 WHEREAS, the present motor vehicle certificate of title law provides for a
7 declaration of all existing liens at the time of application for registration, but does not require
8 that liens given thereafter be declared and entered on the certificate of title; and

9 WHEREAS, the certificate of title, often regarded as absolute, is not conclusive as
10 to liens and may not be relied upon to show good title for purpose of sale or encumbrance,
11 except as it relates to lien perfection under Section 213 of the Interstate Commerce Act; that is,
12 liens on equipment of interstate common and contract carriers; and

13 WHEREAS, the present certificate of title law does not meet the requisites of the
14 Uniform Title Code because the certificate of title is not in and of itself adequate notice to third
15 parties of existing liens; and

16 WHEREAS, a certificate of title that can be relied upon as a ready means by which
17 all legal interests in motor vehicles may be determined would be to the public interest: Now,
18 therefore,

19
20 The General Assembly of North Carolina do enact:

21
22 **Section 1.** G.S. 20-38 is hereby amended by adding at the end thereof three new
23 subsections to be designated subsections (hh), (ii) and (jj) to read as follows:

24 "(hh) Security agreement. A written agreement which reserves or creates a security
25 interest.

26 "(ii) Security interest. An interest in a vehicle reserved or created by agreement and
27 which secures payment or performance of an obligation. The term includes but is not limited to
28 the interest of a chattel mortgagee, the interest of a vendor under a conditional sale contract, the
29 interest of a trustee under a chattel deed of trust, and the interest of a lessor under a lease
30 intended as security. A security interest is 'perfected' when it is valid against third parties
31 generally,

32 "(jj) Manufacturer's certificate. A certification, on a form approved by the Department of
33 Motor Vehicles, signed by the manufacturer, indicating the name of the person or dealer to
34 whom the therein described vehicle is transferred, the date of transfer and that such vehicle is
35 the first transfer of such vehicle in ordinary trade and commerce. The description of the vehicle
36 shall include the make, model, year, type of body, identification number or numbers, and such
37 other information as the Department may require."

38 **Sec. 2.** G.S. 20-52(a) is hereby amended by rewriting subdivision 3 thereof to read
39 as follows:

40 "3. A statement of the applicant's title and of all liens or encumbrances upon
41 said vehicle and the names and addresses of all lien holders in the order of
42 their priority, and the amount, date and nature of the security agreement."

43 **Sec. 3.** G.S. 20-52(b) is hereby rewritten to read as follows:

1 "(b) When such application refers to a new vehicle purchased from a manufacturer or
2 dealer, such application shall be accompanied with a manufacturer's certificate of origin that is
3 properly assigned to the applicant. If the new vehicle is acquired from a dealer or person
4 located in another jurisdiction other than a manufacturer, the application shall be accompanied
5 with such evidence of ownership as is required by the laws of that jurisdiction duly assigned by
6 the disposer to the purchaser, or, if no such evidence of ownership be required by the laws of
7 such other jurisdiction, a notarized bill of sale from the disposer."

8 **Sec. 4.** Chapter 20 of the General Statutes is hereby amended by inserting following
9 G.S. 20-52 a new Section to be designated G.S. 20-52.1 and to read as follows:

10 **"§ 20-52.1. Manufacturer's certificate of transfer of new motor vehicle.** (a) Any
11 manufacturer transferring a new motor vehicle to another shall, at the time of the transfer,
12 supply the transferee with a manufacturer's certificate of origin assigned to the transferee.

13 "(b) Any dealer transferring a new vehicle to another dealer shall, at the time of transfer,
14 give such transferee the proper manufacturer's certificate assigned to the transferee.

15 "(c) Any dealer transferring a new vehicle to a consumer-purchaser shall, at the time of
16 transfer, give the purchaser the proper manufacturer's certificate assigned to the transferee."

17 **Sec. 5.** G.S. 20-57(d) is hereby rewritten to read as follows:

18 "(d) The certificate of title shall contain upon the face thereof the identical information
19 required upon the face of the registration card, and in addition thereto the date of issuance and
20 all liens or encumbrances disclosed in the application for title. All such liens or encumbrances
21 shall be shown in the order of their priority, according to the information contained in such
22 application."

23 **Sec. 6.** Chapter 20 of the General Statutes is hereby amended by striking out
24 G.S. 20-58 and by inserting in lieu thereof eleven new Sections to be designated G.S. 20-58 and
25 G.S. 20-58.1 through G.S. 20-58.10 inclusive and to read as follows:

26 **"§ 20-58. Perfection of security interests.** (a) Except as provided in G.S. 20-58.9, a security
27 interest in a vehicle of a type for which a certificate of title is required is not valid against
28 creditors of the owner or subsequent transferees or lien holders of the vehicle unless perfected
29 as provided in this Chapter.

30 "(b) A security interest is perfected by delivery to the Department of the existing
31 certificate of title if the vehicle has been previously registered in this State, and if not, an
32 application for a certificate of title containing the name and address of the lien holder, the date,
33 amount and nature of his security agreement, and the required fee. The lien is perfected as of
34 the time of its creation if the delivery of the certificate or application to the Department is
35 completed within ten days thereafter, otherwise it is perfected as of the time of delivery.

36 "(c) If a vehicle is subject to a security interest when brought into this State, the validity
37 of the security interest is determined by the law of the jurisdiction where the vehicle was when
38 the security interest attached, subject to the following:

39 (1) If the vehicle is purchased for use and registration in North Carolina, the
40 validity of the security interest in this State is determined by the law of this
41 State.

42 (2) If the security interest was perfected under the law of the jurisdiction where
43 the vehicle was when the security interest attached, the following rules
44 apply:

45 a. If the name of the lien holder is shown on an existing certificate of
46 title issued by that jurisdiction, his security interest continues
47 perfected in this State.

48 b. If the name of the lien holder is not shown on an existing certificate
49 of title issued by that jurisdiction, the security interest continues
50 perfected in this State for four months after vehicle is brought into
51 this State, and also, thereafter if, within the four-month period, it is

1 perfected in this State. The security interest may also be perfected in
2 this State after the expiration of the four-month period; in that case
3 perfection dates from the time of perfection in this State.

- 4 (3) If the security interest was not perfected under the law of the jurisdiction
5 where the vehicle was when the security interest attached, it may be
6 perfected in this State; in that case, perfection dates from the time of
7 perfection in this State.

8 "**§ 20-58.1. Liens subsequently created.** If an owner creates a security interest in a vehicle
9 after the original issuance of a certificate of title to such vehicle.

- 10 (1) The owner shall immediately execute an application, on a form the
11 Department prescribes, to name the lien holder on the certificate, showing
12 the name and address of the lien holder, the amount, date and nature of his
13 security agreement, and cause the certificate, application and the required fee
14 to be delivered to the lien holder.

- 15 (2) The lien holder shall immediately cause the certificate, application and the
16 required fee to be mailed or delivered to the Department.

- 17 (3) If the certificate of title is in the possession of some prior lien holder, the
18 new or subordinate lienor shall forward to the Department the required
19 application for noting his lien, together with the required fee, and the
20 Department when satisfied that the application is in order shall procure the
21 certificate of title from the lien holder in whose possession it is being held,
22 for the sole purpose of noting the new lien thereon. Upon request of the
23 Department, a lien holder in possession of the certificate of title shall
24 forthwith deliver or mail the certificate of title to the Department. The
25 delivery of the certificate does not affect the rights of the first lien holder
26 under his security agreement.

- 27 (4) Upon receipt of the certificate of title, application and the required fee, the
28 Department, if it finds the application in order, shall either endorse on the
29 certificate, or issue a new certificate containing, the name and address of the
30 new lien holder, and mail the certificate to the first lien holder named in it.
31 The Department shall also notify the new lien holder of the fact that his lien
32 has been noted upon the certificate of title.

33 "**§ 20-58.2. Certificate as notice of lien.** A certificate of title to a vehicle, when issued by the
34 Department showing a lien or encumbrance, shall be deemed adequate notice to all creditors
35 and purchasers that a security interest exists in and against the motor vehicle, and recordation
36 of such reservation of title, lien or encumbrance in the county wherein the purchaser or debtor
37 resides or elsewhere shall not be necessary for the validity thereof.

38 "**§ 20-58.3. Assignment by lien holder.** (a) A lien holder, other than one whose interest is
39 dependent solely upon possession may assign, absolutely or otherwise, his security interest in
40 the vehicle to a person other than the owner without affecting the interest of the owner or the
41 validity of the security interest, but any person without notice of the assignment is protected in
42 dealing with the lien holder as the holder of the security interest and the lien holder remains
43 liable for any obligations as lien holder until an assignment by the lien holder is delivered to the
44 Department as provided in subsection (b).

45 (b) The assignee may, but need not to perfect the assignment, have the certificate of title
46 endorsed or issued with the assignee named as a lien holder, upon delivering to the Department
47 with the required fee, the certificate of title and an assignment by the lien holder named in the
48 certificate in the form the Department prescribes.

49 (c) The assignee of any lien properly assigned and noted on the certificate of title as
50 described above shall be entitled to the same priority among the outstanding lienors and have
51 all the other property rights therein as had formerly been held by his assignor.

1 **"§ 20-58.4. Release of security interest.** (a) Upon the satisfaction of a security interest in a
2 vehicle for which the certificate of title is in the possession of the lien holder, the lien holder
3 shall within ten days after demand and, in any event, within thirty days, execute a release of his
4 security interest, in the space provided therefor on the certificate or as the Department
5 prescribes, and mail or deliver the certificate and release to the next lien holder named therein,
6 or, if none, to the owner or other person authorized to receive the certificate for the owner.

7 "(b) Upon the satisfaction of a security interest in a vehicle for which the certificate of
8 title is in the possession of a prior lien holder, the lien holder whose security interest is satisfied
9 shall within ten days execute a release of his security interest in such form as the Department
10 prescribes and mail or deliver the same to the owner or other person authorized to receive the
11 same for the owner.

12 "(c) An owner, upon securing the release of any security interest in a vehicle shown
13 upon the certificate of title issued therefor, may exhibit the documents evidencing such release,
14 signed by the person or persons making such release, and the certificate of title to the
15 Department which shall, when satisfied as to the genuineness and regularity of the release,
16 issue to the owner either a new certificate of title in proper form or an endorsement or rider
17 attached thereto showing the release of the security interest.

18 "(d) If an owner exhibits documents evidencing the release of a security interest as
19 provided in subsection (c) of this Section but is unable to furnish the certificate of title to
20 Department because it is in possession of a prior lien holder, the Department, when satisfied as
21 to the genuineness and regularity of the release, shall procure the certificate of title from the
22 person in possession thereof for the sole purpose of noting thereon the release of the subsequent
23 security interest, following which the Department shall return the certificate of title to the
24 person from whom it was obtained and notify the owner that the release has been noted on the
25 certificate of title.

26 (e) If it is impossible for the owner to secure from the lien holder the release
27 contemplated by this Section, the owner may exhibit to the Department such evidence as may
28 be available showing satisfaction of the debt secured, together with a sworn affidavit by the
29 owner that the debt has been satisfied, which the Department may treat as a proper release for
30 purpose of this Section when satisfied as to the genuineness, truth and sufficiency thereof. Prior
31 to cancellation of a security interest under the provisions of this subsection, at least fifteen days
32 notice of the pendency thereof shall be given to the lien holder at his last known address by the
33 Department by registered letter.

34 **"§ 20-58.5. Duration of security interests in favor of firms which cease to do business.** Any
35 security interest recorded in favor of a firm or corporation which, since the recording of such
36 lien, has dissolved, ceased to do business, or gone out of business for any reason, and which
37 remains of record as a security interest of such firm or corporation for a period of more than
38 three years from the date of the recording thereof, shall become null and void and of no futher
39 force and effect.

40 **"§ 20-58.6. Levy of execution, etc.** A levy made by virtue of an execution or some other
41 proper court order, upon a vehicle for which a certificate of title has been issued by the
42 Department, shall constitute a security interest, subsequent to all others theretofore recorded by
43 the Department, if and when the officer making such levy makes a report to the Department in
44 the form prescribed by the Department, that such levy has been made and that the vehicle
45 levied upon has been seized by and is in the custody of such officer. If such security interest
46 created thereby is thereafter satisfied, or should the vehicle thus levied upon and seized be
47 thereafter released by such officer, he shall immediately report that fact to the Department. Any
48 owner who, after such levy and seizure by an officer and before a report thereof by the officer
49 to the Department, shall fraudulently assign or transfer his title to or interest in such vehicle or
50 cause the certificate of title thereto to be assigned or transferred or cause a security interest to
51 be shown upon such certificate of title shall be deemed guilty of a misdemeanor and upon

1 conviction thereof shall be fined not less than twenty-five dollars (\$25.00) nor more than five
2 hundred dollars (\$500.00), or imprisoned for not less than ten days nor more than twelve
3 months.

4 **"§ 20-58.7. Duty of lien holder.** A lien holder named in a certificate of title shall, upon written
5 request of the owner or of another lien holder named on the certificate, disclose information as
6 to his security agreement and the indebtedness secured by it.

7 **"§ 20-58.8. Cancellation of certificate.** The cancellation of a certificate of title shall not, in
8 and of itself, affect the validity of a security interest noted on it.

9 **"§ 20-58.9. Excepted liens and security interests.** The provisions of G.S. 20-58 through
10 G.S. 20-58.8 inclusive shall not apply to or affect:

- 11 (1) A lien given by statute or rule of law for storage of a motor vehicle or to a
12 supplier of services or materials for a vehicle;
- 13 (2) A lien arising by virtue of a statute in favor of the United States, this State or
14 any political subdivision of this State; or
- 15 (3) A security interest in a vehicle created by a manufacturer or dealer who
16 holds the vehicle for resale but a buyer in the ordinary course of trade from
17 the manufacturer or dealer takes free of such security interest.

18 **"§ 20-58.10. Effective date.** The provisions of G.S. 20-58 through G.S. 20-58.9 inclusive shall
19 be effective and relate to the perfecting and giving notice of security interests entered into on
20 and after January 1, 1962."

21 **Sec. 7.** G.S. 20-68(c) is hereby rewritten to read as follows:

22 "(c) If a certificate of title is lost, stolen, mutilated, destroyed or becomes illegible, the
23 first lien holder or, if none, the owner or legal representative of the owner named in the
24 certificate, as shown by the records of the Department, shall promptly make application for and
25 may obtain a duplicate upon furnishing information satisfactory to the Department. It shall be
26 mailed to the first lien holder named in it or, if none, to the owner. The Department shall not
27 issue a new certificate of title upon application made on a duplicate until fifteen days after
28 receipt of the application. A person recovering an original certificate of title for which a
29 duplicate has been issued shall promptly surrender the original certificate to the Department."

30 **Sec. 8.** G.S. 20-72(b) is hereby amended by adding at the end thereof a new
31 sentence to read as follows: "Transfer of ownership in a vehicle by an owner is not effective
32 until the provisions of this subsection have been complied with."

33 **Sec. 9.** G.S. 20-75 is hereby amended by adding a new sentence at the end thereof
34 to read as follows: "Transfer of ownership in a vehicle by a dealer is not effective until the
35 provisions of this subsection have been complied with."

36 **Sec. 10.** G.S. 20-76 is hereby amended by designating G.S. 20-76 as now written as
37 subsection (a) thereof and adding thereto a new subsection to be designated subsection (b) and
38 to read as follows:

39 "(b) Whenever the applicant for a new certificate of title is unable to satisfy the
40 Department that he is entitled thereto as provided in subsection (a) of this Section, the applicant
41 may nevertheless obtain issuance of a new certificate of title by filing a bond with the
42 Department as a condition to the issuance thereof. The bond shall be in the form prescribed by
43 the Department and shall be executed by the applicant. It shall be accompanied by the deposit
44 of cash with the Department, be executed as surety by a person, firm or corporation authorized
45 to conduct a surety business in this State or be in the nature of a real estate bond as described in
46 G.S. 20-279.24(a). The bond shall be in an amount equal to one and one-half times the value of
47 the vehicle as determined by the Department and conditioned to indemnify any prior owner or
48 lien holder, any subsequent purchaser of the vehicle or person acquiring any security interest
49 therein, and their respective successors in interest, against any expense, loss or damage, reason
50 of the issuance of the certificate of title to the vehicle or on account of any defect in or
51 undisclosed security interest in the right, title and interest of the applicant in and to the vehicle.

1 Any person damaged by issuance of the certificate of title shall have a right of action to recover
2 on the bond for any breach of its conditions, but the aggregate liability of the surety to all
3 persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it,
4 shall be returned at the end of three years or prior thereto if the vehicle is no longer registered
5 in this State and the currently valid certificate of title is surrendered to the Department, unless
6 the Department has been notified of the pendency of an action to recover on the bond."

7 **Sec. 11.** G.S. 20-85 is hereby amended by striking out the figures ".50" at the end
8 of subsection (a) thereof and substituting in lieu thereof the figures "1.00"; striking out the
9 figures ".50" at the end of subsection (b) thereof and substituting in lieu thereof the figures
10 "1.00"; striking out the figures ".50" at the end of subsection (c) thereof and substituting in lieu
11 thereof the figures "1.00", and by adding at the end thereof three new subsections to be
12 designated subsections (g), (h) and (i) and to read as follows:

13 "(g) Each application for recording supplementary lien\$1.00

14 "(h) Each application for removing a lien from a certificate of title\$1.00

15 "(i) The fees collected under subsections (g) and (h) of this Section shall be placed in a
16 special fund designated the 'Lien Recording Fund' and shall be used under the direction and
17 supervision of the Assistant Director of the Budget for the administration of the laws of this
18 State relating to the perfection of security interest in vehicles."

19 **Sec. 12.** G.S. 47-20.2(b) is hereby amended by adding at the end thereof a new
20 subdivision to be designated subdivision (5) and to read as follows:

21 "(5) If the personal property concerned is a vehicle required to be registered
22 under the motor vehicle laws of the State of North Carolina, then the
23 provisions of this Section shall not apply but the security interest arising
24 from the deed of trust, mortgage, conditional sales contract, or lease intended
25 as security of such vehicle may be perfected by recordation in accordance
26 with the provisions of G.S. 20-58 through G.S. 20-58.10."

27 **Sec. 13.** All laws and clauses of laws in conflict with this Act are hereby repealed.

28 **Sec. 14.** This Act shall be in full force and effect from and after July 1, 1961.

29 In the General Assembly read three times and ratified, this the 15th day of June,

30 1961.