

SENATE BILL No. 260

By Committee on Judiciary

1-15

1 AN ACT concerning liens on personal property; relating to filing
2 statements; enforcement and foreclosure; amending K.S.A. 58-201 and
3 58-202 and K.S.A. 2013 Supp. 28-115 and repealing the existing
4 sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Whenever any person, at or with the owner's request
8 or consent performs work, makes repairs or improvements or replaces,
9 adds or installs equipment on any vehicle for which a certificate of title has
10 been issued pursuant to K.S.A. 8-135 or 8-198, and amendments thereto, a
11 first and prior lien on the vehicle is hereby created in favor of the person
12 performing the work, making the repairs or improvements or replacing,
13 adding or installing the equipment. The lien shall amount to the full
14 amount and reasonable value of the services performed and shall include
15 the reasonable value of all material used in the performance of such
16 services and the reasonable value of all equipment replaced, added or
17 installed.

18 (b) If such vehicle comes into the lien claimant's possession for the
19 purpose of having work, repairs or improvements made or equipment
20 replaced, added or installed thereon, such lien shall be valid as long as the
21 lien claimant retains possession of the vehicle. The lien claimant may
22 retain the lien after parting with the possession of the vehicle by filing
23 within 90 days in the division of vehicles of the department of revenue a
24 notice of the mechanic's lien.

25 (c) If the lien claimant was never in possession of the vehicle, the lien
26 claimant may retain the lien by filing, within 90 days after the date upon
27 which work was last performed, material was last furnished in performing
28 such work or making such repairs or improvements or equipment was last
29 replaced, added or installed in the division of vehicles of the department of
30 revenue a notice of the mechanic's lien.

31 (d) A notice of the mechanic's lien shall be on a form prescribed by
32 the division and shall include the following information: (1) A statement of
33 the items of the account; (2) the vehicle's year, make and identification
34 number; (3) the name of the vehicle's owner; (4) the county where the
35 work was performed; (5) the date upon which work was last performed,
36 material was last furnished in performing such work or making such

1 repairs or improvements or equipment was last replaced, added or
2 installed; and (6) and any other information required by the division. If the
3 lien claimant has documentary evidence of the owner's request or consent
4 authorizing the performance of services on the vehicle, that evidence
5 should be attached to the notice of the mechanic's lien.

6 (e) Upon the filing of a notice of the mechanic's lien under this
7 section and payment to the division of a fee not to exceed \$10, the division
8 shall create a new electronic title reflecting the lien and shall cancel any
9 existing title number. The division shall be authorized to demand in
10 writing the surrender and return of the canceled physical certificate of title,
11 if one exists, from the owner of the vehicle within 15 days. The division
12 may call to its aid any state highway patrol or peace officer to secure the
13 surrender and return of a canceled physical certificate of title within such
14 officer's jurisdiction, and it shall be the duty of such officer to comply.
15 Once the lien is properly recorded and perfected by noting it on the
16 electronic certificate of title, a transfer of title is not valid unless the lien
17 has been released in the manner provided by the applicable provisions of
18 K.S.A. 58-202, and amendments thereto. The division shall remit all fees
19 received by the division under this subsection to the state treasurer in
20 accordance with the provisions of K.S.A. 75-4215, and amendments
21 thereto, and such fees shall be considered certificate of title fees. Upon
22 receipt of each such remittance, the state treasurer shall deposit the entire
23 amount in the state treasury and credit such fees in accordance with K.S.A.
24 8-145, and amendments thereto.

25 (f) If the division does not have a current title record on the vehicle
26 that matches the owner or vehicle identification number listed on the
27 notice of the mechanic's lien, the division may refuse to allow the lien
28 claimant to file the notice of the mechanic's lien to record and perfect its
29 lien. The duties and responsibilities of the division with respect to the
30 filing of notice of the mechanic's liens shall be ministerial.

31 (g) As used in this section, the following terms have the following
32 meanings:

33 (1) "Division" means the division of vehicles of the department of
34 revenue, acting directly or through its duly authorized officers and agents.
35 When acting on behalf of the department of revenue under this act, a
36 county treasurer shall be deemed to be an agent of the state of Kansas.

37 (2) "Equipment" includes tires and other standard equipment on
38 vehicles.

39 (3) "Owner" has the same meaning as in subsection (n) of K.S.A. 8-
40 126, and amendments thereto.

41 (4) "Vehicle" has the same meaning as in subsection (a) of K.S.A. 8-
42 126, and amendments thereto.

43 Sec. 2. K.S.A. 2013 Supp. 28-115 is hereby amended to read as

1 follows: 28-115. (a) The register of deeds of each county shall charge and
 2 collect the following fees:
 3 For recording deeds, mortgages or other instruments
 4 of writing, for first page, not to exceed legal size
 5 page—8 ½" x 14"..... \$6.00
 6 For second page and each additional page or fraction
 7 thereof..... 2.00
 8 Recording town plats, for each page..... 20.00
 9 Recording release or assignment of real estate mortgage..... 5.00
 10 Certificate, certifying any instrument on record..... 1.00
 11 Acknowledgment of a signature..... .50
 12 For filing notices of tax liens under the internal revenue
 13 laws of the United States..... 5.00
 14 For filing releases of tax liens, certificates of discharge,
 15 under the internal revenue laws of the United States
 16 or the revenue laws of the state of Kansas..... 5.00
 17 ~~For filing liens for materials and services under~~
 18 ~~K.S.A. 58-201, and amendments thereto..... 5.00~~
 19 (b) In addition to the fees required to be charged and collected
 20 pursuant to subsection (a), the register of deeds shall charge and collect an
 21 additional fee of \$2 per page for recording:
 22 (1) The first page of any deeds, mortgages or other instruments of
 23 writing, not to exceed legal size—8½" x 14";
 24 (2) the second page and each additional page or fraction of any deeds,
 25 mortgages or instruments of writing; and
 26 (3) a release or assignment of real estate mortgage.
 27 Any fees collected pursuant to this subsection shall be paid by the
 28 register of deeds to the county treasurer. The county treasurer shall deposit
 29 such funds in the register of deeds technology fund as provided by K.S.A.
 30 2013 Supp. 28-115a, and amendments thereto.
 31 (c) For any filing or service provided for in the uniform commercial
 32 code, the amount therein provided, shall be charged and collected. No fee
 33 shall be charged or collected for any filing made by the secretary of health
 34 and environment or the secretary's designee pursuant to K.S.A. 39-709,
 35 and amendments thereto.
 36 (d) If the name or names of the signer or signers or any notary public
 37 to any instrument to be recorded are not plainly typed or printed under the
 38 signatures affixed to the instrument, the register of deeds shall charge and
 39 collect a fee of \$1 in addition to all other fees provided in this section.
 40 (e) If sufficient space is not provided for the necessary recording
 41 information and certification on a document, such recording information
 42 shall be placed on an added sheet and such sheet shall be counted as a
 43 page. The document shall be of sufficient legibility so as to produce a clear

1 and legible reproduction thereof. If a document is judged not to be of
2 sufficient legibility so as to produce a clear and legible reproduction, such
3 document shall be accompanied by an exact copy thereof which shall be of
4 sufficient legibility so as to produce a clear and legible reproduction
5 thereof and which shall be recorded contemporaneously with the document
6 and shall be counted as additional pages. The register of deeds may reject
7 any document which is not of sufficient legibility so as to produce a clear
8 and legible reproduction thereof.

9 (f) Any document which was filed on or after January 1, 1989, which
10 was of a size print or type smaller than 8-point type but which otherwise
11 was properly filed shall be deemed to be validly filed.

12 (g) All fees required to be collected pursuant to this section, except
13 those charged for the filing of liens and releases of tax liens under the
14 internal revenue laws of the United States, shall be due and payable before
15 the register of deeds shall be required to do the work. If the register of
16 deeds fails to collect any of the fees provided in this section, the amount of
17 the fees at the end of each quarter shall be deducted from the register's
18 salary.

19 (h) Except as otherwise provided by subsection (b), all fees required
20 to be collected pursuant to this section shall be paid by the register of
21 deeds to the county treasurer and deposited into the general fund of the
22 county.

23 Section 3. K.S.A. 58-201 is hereby amended to read as follows: 58-
24 201. (a) Whenever any person, at or with the owner's request or consent
25 shall perform work, make repairs or improvements or replace, add or
26 install equipment on any goods, personal property, chattels, horses, mules,
27 wagons, buggies, ~~automobiles, trucks, trailers,~~ locomotives, railroad
28 rolling stock, barges, aircraft, equipment of all kinds, including but not
29 limited to construction equipment, *trailers and* vehicles of all kinds *which*
30 *are not subject to the provisions of section 1, and amendments thereto,* and
31 farm implements of whatsoever kind, a first and prior lien on such
32 personal property is hereby created in favor of such person performing
33 such work, making such repairs or improvements or replacing, adding or
34 installing such equipment and such lien shall amount to the full amount
35 and reasonable value of the services performed and shall include the
36 reasonable value of all material used in the performance of such services
37 and the reasonable value of all equipment replaced, added or installed.

38 (b) If such property shall come into the lien claimant's possession for
39 the purpose of having the work, repairs or improvements made or the
40 equipment replaced, added or installed thereon, such lien shall be valid as
41 long as the lien claimant retains possession of the property, and the
42 claimant of the lien may retain the same after parting with the possession
43 of the property by filing within 90 days in the office of the ~~register of~~

1 deeds, under oath, a statement of the items of the account and a description
2 of the property on which the lien is claimed, with the name of the owner
3 thereof, in the county where the work was performed and in the county of
4 the residence of the owner, if such is known to the claimant *secretary of*
5 *state, on a form prescribed by the secretary of state, a description of the*
6 *property upon which the lien is claimed, the name of the lien claimant, the*
7 *name of the debtor under the lien, and the date upon which work was last*
8 *performed, material was last furnished in performing such work or*
9 *making such repairs or improvements, or equipment was last replaced,*
10 *added or installed.*

11 (c) If the lien claimant was never in possession of the property, the
12 lien claimant may retain the lien by filing, within 90 days after the date
13 upon which work was last performed, material was last furnished in
14 performing such work or making such repairs or improvements or
15 equipment was last replaced, added or installed in the office of the register
16 of deeds, ~~under oath, a statement of the items of the account and a~~
17 ~~description of the property on which the lien is claimed, with the name of~~
18 ~~the owner thereof and the date upon which work was last performed,~~
19 ~~material was last furnished in performing such work or making such~~
20 ~~repairs or improvements or equipment was last replaced, added or~~
21 ~~installed, in the county where the work was performed and in the county of~~
22 ~~the residence of the owner, if such is known to the claimant~~ *secretary of*
23 *state, on a form prescribed by the secretary of state, a description of the*
24 *property upon which the lien is claimed, the name of the lien claimant, the*
25 *name of the debtor under the lien, and the date upon which work was last*
26 *performed, material was last furnished in performing such work or*
27 *making such repairs or improvements, or equipment was last replaced,*
28 *added or installed.*

29 (d) *The secretary of state shall file and index the notice of the lien in*
30 *accordance with the requirements of this section on a filing system to be*
31 *prescribed by the secretary of state. The duties and responsibility of the*
32 *secretary with respect to such filing and indexing shall be ministerial.*

33 (e) *Upon the filing of a notice of the lien under this section and*
34 *payment of a fee not to exceed \$20, the secretary shall remit all fees*
35 *received by the secretary under this section to the state treasurer. Upon*
36 *receipt of each such remittance, the state treasurer shall deposit the entire*
37 *amount in the state treasury and credit such fees to the credit of the*
38 *information and services fee fund.*

39 (f) As used in this section, "equipment" includes tires and other
40 standard equipment on vehicles.

41 Sec. 4. K.S.A. 58-202 is hereby amended to read as follows: 58-202.
42 ~~Such~~ *Any lien created under section 1 or K.S.A. 58-201, and amendments*
43 *thereto, may be enforced and foreclosed as security agreements are*

1 enforced under the provisions of the uniform commercial code. Any legal
2 action necessary to enforce or foreclose upon any such lien ~~filed in the~~
3 ~~office of the register of deeds~~ shall be brought within one year of the date
4 such lien was filed, and unless such action is brought within such time,
5 such lien shall be deemed to have been abandoned and shall be thereafter
6 void. After ~~five~~ two years from the date such lien has been filed, the
7 ~~register of deeds of the county~~ office where the lien is filed may remove
8 the lien from the records and destroy the records. *Upon satisfaction of any*
9 *lien created under K.S.A. 58-201, and amendments thereto, the lien*
10 *claimant shall, within 10 days, file a release of the lien with the secretary*
11 *of state. Upon satisfaction of any lien created under section 1, and*
12 *amendments thereto, the lien claimant shall, within 10 days, file a release*
13 *of the lien with the division of vehicles of the department of revenue in*
14 *compliance with K.S.A. 8-1,157, and amendments thereto.*

15 Sec. 5. K.S.A. 58-201 and 58-202 and K.S.A. 2013 Supp. 28-115 are
16 hereby repealed.

17 Sec. 6. This act shall take effect and be in force from and after its
18 publication in the statute book.