



SENATE BILL 449: Revise Manufact. Home Title Laws.

2021-2022 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 20, 2021
Introduced by:	Sens. Galey, Britt, Daniel	Prepared by:	Bill Patterson Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 449 would:

- *Provide that a license plate contractor of the Division of Motor Vehicles (DMV) is not subject to a claim under the State Tort Claims Act related to renewal of the perfection of a security interest or failure to give effect to an expired perfection of a security interest on a certificate of title for a manufactured home, if the claim is based on reliance by the license plate contractor on an application for renewal submitted by a third party or on the automatic expiration of the perfection of a security interest.*
- *Authorize a DMV license plate contractor to cancel the security interest on a manufactured home's certificate of title when it is established by affidavit of the owner that the secured debt has been satisfied and that either 1) the owner has been unable to identify or locate the secured party, or 2) the secured party has failed to respond within 30 days to a written request to release the security interest.*
- *Remove the DMV Commissioner's existing authority to require from an owner seeking a new title for a manufactured home being separated from the land to which it is affixed evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent.*
- *Require DMV to prepare a form for use by DMV employees, agents and license plate contractors when a security interest in a manufactured home is cancelled, released, or renewed, or when title to a manufactured home is surrendered, and to publish the form on its website and otherwise make it available to the public on or before December 1, 2021.*

CURRENT LAW:

The Division of Motor Vehicles (DMV) is not subject to a claim under the State Tort Claims Act related to the renewal of the perfection of a security interest on a certificate of title for a manufactured home or the failure to acknowledge or give effect to an expired perfection of such a security interest, when the claim is based on DMV's reliance on a third party's application for renewal, or on automatic expiration pursuant to statute.

An owner of a manufactured home who has not been able to obtain a release of a security interest on the certificate of title after having paid the secured debt in full can submit to DMV proof of the release in the form of an affidavit that the debt has been satisfied and stating either that

- The owner has been unable after diligent inquiry to determine the identity or current location of the secured party or its successor in interest, or

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- The secured creditor has not responded within 30 days to a written request to release the security interest.

If DMV is satisfied as to the genuineness, truth, and sufficiency of the affidavit, and if the secured party does not contest the cancellation within 15 days after DMV has sent notice of the proposed cancellation to its last known address by registered mail, DMV is authorized to cancel the security interest.

If the owner of a manufactured home whose certificate of title has been cancelled as a result of becoming affixed to land wants to separate it from the real property and obtain a new certificate of title, the owner must submit an affidavit to the DMV including a description of any security interests in the manufactured home and verification that all affected owners of security interests in the real property where the manufactured home was placed have given their written consent. In addition, the DMV Commissioner can require the owner to provide evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent.

BILL ANALYSIS: **Section 1** of Senate Bill 449 would provide that a DMV license plate contractor is not subject to a claim under the Tort Claims Act related to renewal of the perfection of a security interest on a certificate of title for a manufactured home or the failure to acknowledge or give effect to an expired perfection of such a security interest, if the claim is based on the contractor's reliance on a third party's application for renewal submitted to the contractor, or on the automatic expiration of a perfection of a security interest by operation of statute.

Section 2 would provide that a DMV license plate contractor has the same authority as DMV to cancel a security interest on a certificate of title for a manufactured home upon receipt of the owner's affidavit that the owner has been unable to locate or identify the secured party or its successor in interest after diligent inquiry, or that the secured creditor has not responded within 30 days to the owner's written request to release the security interest.

Section 3 would remove language providing that the DMV Commissioner can require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent to the application for a new title for a manufactured home being separated from real property to which it has been affixed.

Section 4 would direct DMV to create a form for use by DMV employees, agents, and license plate contractors when a security interest in a manufactured home is cancelled, released, or renewed, or when title to a manufactured home is surrendered, and would require the Division to publish the form on its website and otherwise make it available to the public on or before December 1, 2021.

EFFECTIVE DATE: This act would become effective October 1, 2021.