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## MOTOR VEHICLES AND TRAFFIC Certificates of Title, Security Interests, and Liens: Amend Provision Relating to Perfection of Security Interests in Motor Vehicles Generally; Provide for Perfection of Delivery of Notice

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## MOTOR VEHICLES AND TRAFFIC

*Certificates of Title, Security Interests, and Liens:  
Amend Provision Relating to Perfection of Security  
Interests in Motor Vehicles Generally; Provide for  
Perfection of Delivery of Notice*

CODE SECTION: O.C.G.A. § 40-3-50 (amended)  
BILL NUMBER: HB 1364  
ACT NUMBER: 489  
GEORGIA LAWS: 2000 Ga. Laws 227  
SUMMARY: The Act provides that a person or business may perfect a security interest in a motor vehicle by presenting the required fee and (1) the existing title and an application for title containing the name and address of the holder of a security interest or (2) a notice of security interest on forms prescribed by the county tax commissioner. Further, the Act provides that the security interest is perfected at the time of its creation if the delivery of the application or notice to the commissioner or local tag agent is completed within twenty days thereafter. The Act provides that the security interest is perfected regardless of any subsequent rejection of the application or notice of errors.  
EFFECTIVE DATE: July 1, 2000

### *History*

Prior to the passage of HB 1364, Georgia law required that a person, in order to perfect a vehicle's title, must present the original title to the local tag agent within twenty days of a sale or transaction.<sup>1</sup> During the twenty-day time period before the

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1. See Audio Recording of House Proceedings, Feb. 16, 2000 (remarks by Rep. Alan

dealership can perfect title, the then-current title holder may still discharge indebtedness through bankruptcy.<sup>2</sup> Under the old law, the original title holder technically kept the title until the transferee could present it to the local tag agent, which created conflicting situations for the dealership and the title holder.<sup>3</sup> Because title had not officially changed hands, the original holder could have the bankruptcy court declare that he still owned the car and prevent the transferee from taking title.<sup>4</sup> Under the amended law, it is no longer necessary to present the original title within twenty days to protect an ownership interest in a car.<sup>5</sup> Instead, a person may perfect a security interest simply by delivering notice or an application to the county tag agent.<sup>6</sup>

Representatives Alan Powell of the 23rd House District and Bobby Parham of the 122nd House District sponsored HB 1364.<sup>7</sup> Representative Powell realized the need to protect a transferee's interest in car titles through his work as Vice-Chairman of the Motor Vehicles Committee.<sup>8</sup> The Georgia Bankers Association and the Georgia Auto Dealers also supported the legislation.<sup>9</sup>

### *HB 1364*

Upon introduction, the House assigned the bill to its Motor Vehicles Committee, which favorably reported the bill on February 9, 2000.<sup>10</sup> The House passed the bill on February 16, 2000, and the Senate passed the bill on March 13, 2000, without

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Powell) <<http://www.ganet.org/services/leg/audio/2000archive.html>>.

2. See Telephone Interview with Rep. Alan Powell, House District No. 23 (June 8, 2000) [hereinafter Powell Interview].

3. See *id.*

4. See *id.*

5. Compare 1995 Ga. Laws 809, § 14, at 823-24 (formerly found at O.C.G.A. § 40-3-50 (1997)), with O.C.G.A. § 40-3-50 (Supp. 2000).

6. Compare 1995 Ga. Laws 809, § 14, at 823-24 (formerly found at O.C.G.A. § 40-3-50 (1997)), with O.C.G.A. § 40-3-50 (Supp. 2000).

7. See HB 1364, as introduced, 2000 Ga. Gen. Assem.

8. See Powell Interview, *supra* note 2.

9. See *id.*

10. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

any changes or opposition.<sup>11</sup> Governor Roy Barnes signed HB 1364 into law on March 30, 2000.<sup>12</sup>

### *The Act*

The Act amends Code section 40-3-50, regarding security interests in motor vehicles, by providing an additional option for perfecting a security interest in motor vehicles.<sup>13</sup> The Act allows dealers to retain the option of perfecting a security interest by delivering the existing title certificate and an application for a title certificate to the county tag agent in the county in which the seller is located, the county in which the sale takes place, the county in which the vehicle is delivered, or the county in which the vehicle's owner resides.<sup>14</sup> Under the Act, a seller has a second option for perfecting a security interest.<sup>15</sup> The seller must present a security interest notice to the county tag agent on forms that the commissioner prescribes.<sup>16</sup> Such forms must be presented in the county in which the seller is located, the county in which the sale takes place, the county in which the vehicle is delivered, or the county in which the vehicle's owner resides.<sup>17</sup>

*Jackie L. Volk*

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11. See Georgia House of Representatives Voting Record, HB 1364 (Feb. 16, 2000); Georgia Senate Voting Record, HB 1364 (Mar. 13, 2000).

12. See 2000 Ga. Laws 227, § 6, at 231.

13. Compare 1995 Ga. Laws 809, § 14, at 823-24 (formerly found at O.C.G.A. § 40-3-50 (1997)), with O.C.G.A. § 40-3-50 (Supp. 2000).

14. Compare 1995 Ga. Laws 809, § 14, at 823-24 (formerly found at O.C.G.A. § 40-3-50 (1997)), with O.C.G.A. § 40-3-50 (Supp. 2000).

15. Compare 1995 Ga. Laws 809, § 14, at 823-24 (formerly found at O.C.G.A. § 40-3-50 (1997)), with O.C.G.A. § 40-3-50 (Supp. 2000).

16. Compare 1995 Ga. Laws 809, § 14, at 823-24 (formerly found at O.C.G.A. § 40-3-50 (1997)), with O.C.G.A. § 40-3-50 (Supp. 2000).

17. Compare 1995 Ga. Laws 809, § 14, at 823-24 (formerly found at O.C.G.A. § 40-3-50 (1997)), with O.C.G.A. § 40-3-50 (Supp. 2000).