



Ohio Revised Code

Section 4519.68 Effect of secured transaction restrictions.

Effective: September 16, 2004

Legislation: House Bill 230 - 125th General Assembly

(A)(1) Chapter 1309. of the Revised Code does not permit or require the deposit, filing, or other record of a security interest covering an off-highway motorcycle or all-purpose vehicle, except as provided in division (A)(2) of this section.

(2) Chapter 1309. of the Revised Code applies to a security interest in an off-highway motorcycle or all-purpose vehicle held as inventory, as defined in section 1309.102 of the Revised Code, for sale by a dealer. The security interest has priority over creditors of the dealer as provided in Chapter 1309. of the Revised Code without notation of the security interest on a certificate of title, without entry of a notation of the security interest into the automated title processing system if a physical certificate of title has not been issued, or without the retention of a manufacturer's or importer's certificate.

(B) Subject to division (A) of this section, any security agreement covering a security interest in an off-highway motorcycle or all-purpose vehicle, if a notation of the agreement has been made by a clerk of a court of common pleas on the face of the certificate of title or if the clerk has entered a notation of the agreement into the automated title processing system if a physical certificate of title has not been issued, is valid as against the creditors of the debtor, whether armed with process or not, and against subsequent purchasers, secured parties, and other lienholders or claimants. All security interests, liens, mortgages, and encumbrances entered into the automated title processing system in relation to a particular certificate of title, regardless of whether a physical certificate of title is issued, take priority according to the order of time in which they are entered into the automated title processing system by the clerk. Exposure for sale of any off-highway motorcycle or all-purpose vehicle by its owner, with the knowledge or with the knowledge and consent of the holder of any security interest, lien, mortgage, or encumbrance on it, does not render the security interest, lien, mortgage, or encumbrance ineffective as against the creditors of the owner, or against holders of subsequent security interests, liens, mortgages, or encumbrances upon the off-highway motorcycle or all-purpose vehicle.



The secured party, upon presentation of evidence of a security interest to a clerk of a court of common pleas, together with the certificate of title if a physical certificate of title for the off-highway motorcycle or all-purpose vehicle exists, and the fee prescribed by section 4519.59 of the Revised Code, may have a notation of the security interest made. Unless the secured party specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title, the clerk, over the clerk's signature and seal of office, shall issue a new original certificate of title from the automated title processing system that indicates the security interest and the date of the security interest.

If a security interest is fully discharged as a result of its holder's receipt of good funds in the correct amount and if the holder holds a physical certificate of title, the holder shall note the discharge of the security interest over the holder's signature on the face of the certificate of title, or over the holder's signature on a form prescribed by the registrar of motor vehicles when there is no space for the discharge on the face of the certificate of title. Except as otherwise provided in this section, prior to delivering the certificate of title to the owner, the holder or the holder's agent shall convey the certificate of title or a separate sworn statement of the discharge of the security interest to a clerk. The conveyance shall occur not more than seven business days after the date good funds in the correct amount to discharge fully the security interest have been credited to an account of the holder, provided the holder has been provided accurate information concerning the off-highway motorcycle or all-purpose vehicle. Conveyance of the certificate of title or separate sworn statement of the discharge within the required seven business days may be indicated by postmark or receipt by a clerk within that period. If the discharge of the security interest appears to be genuine, the clerk shall note the cancellation of the security interest on the face of the certificate of title, if it was so conveyed, and also shall note it in the automated title processing system.

If a security interest is fully discharged as a result of its holder's receipt of good funds in the correct amount and the holder does not hold a physical certificate of title, when the holder notifies a clerk of the discharge of its security interest, the holder at that time also may request the clerk to issue a physical certificate of title to the off-highway motorcycle or all-purpose vehicle. The request shall specify whether the clerk is to send the certificate of title directly to the owner or to the holder or the holder's agent for transmission to the owner. If such a request is made, the clerk shall issue a physical certificate of title and send it to the specified person.



The clerk shall not honor such a request for a physical certificate of title if it is not made by the holder at the same time as the holder's notification to the clerk of the discharge of its security interest.

(C) In all cases, a secured party may choose to present a clerk with evidence of a security interest via electronic means, and the clerk shall enter the security interest into the automated title processing system. A secured party also may choose to notify a clerk of the discharge of its security interest via electronic means, and the clerk shall enter the cancellation into the automated title processing system.

(D) If a physical certificate of title has not been issued for an off-highway motorcycle or all-purpose vehicle and all the security interests relating to that motorcycle or vehicle have been discharged, the owner of the motorcycle or vehicle may obtain a physical certificate of title from the clerk of any court of common pleas upon payment of the fee specified in section 4519.59 of the Revised Code.

(E) If a clerk of a court of common pleas, other than the clerk of the court of common pleas of the county in which the owner of an off-highway motorcycle or all-purpose vehicle resides, enters a notation of the existence of, or the cancellation of, a security interest relating to the off-highway motorcycle or all-purpose vehicle, the clerk shall transmit the data relating to the notation to the automated title processing system.