

§ 20-58. Perfection by indication of security interest on certificate of title.

(a) Except as provided in G.S. 20-58.8, a security interest in a vehicle of a type for which a certificate of title is required shall be perfected only as hereinafter provided:

- (1) If the vehicle is not registered in this State, the application for notation of a security interest shall be the application for certificate of title provided for in G.S. 20-52.
- (2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application may be signed by electronic signature by the debtor without notarization, provided the application is submitted by a licensed or regulated lender in this State having a lienholder identification number issued by the Division. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party or in the event the manufacturer's statement of origin or existing certificate of title (i) was not delivered to the dealer or (ii) was lost or misplaced on the date the dealer sells or transfers the motor vehicle. If there is an existing certificate of title issued by this or any other jurisdiction in the possession of a prior secured party, the application for notation of the security interest shall in addition contain the name and address of such prior secured party. An application for notation of a security interest may be signed by the secured party instead of the debtor when the application is accompanied by documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor and by affidavit of the applicant stating the reason the debtor did not sign the application. An application for a notation of a security interest submitted to the Division signed by the secured party instead of the debtor does not require documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor, provided the application is submitted by a licensed or regulated lender in this State having a lienholder identification number issued by the Division. In the event the certificate cannot be obtained for recordation of the security interest, when title remains in the name of the debtor, the Division shall cancel the certificate and issue a new certificate of title listing all the respective security interests. Neither the Division nor its commission contractors shall be liable for any cause of action arising from a notation of security interest placed on a certificate of title pursuant to applications submitted to the Division fraudulently or erroneously by a licensed or regulated lender in this State having a lienholder identification number issued by the Division. Any entity offering an electronic signature process for applications submitted pursuant to this subdivision assumes all responsibility and liability for the accuracy of the signature. The Division and its commission contractors shall be held harmless from any liability to a claim arising from applications submitted with an inaccurate electronic signature pursuant to this subdivision.
- (3) If the application for notation of security interest is made in order to continue the perfection of a security interest perfected in another jurisdiction, it may be signed by the secured party instead of the debtor. Such application shall be accompanied by documentary evidence of a perfected security interest. No such application shall be valid unless an application for a certificate of title has

been made in North Carolina. The security interest perfected herein shall be subject to the provisions set forth in G.S. 20-58.5.

(b) If a manufacturer's statement of origin or an existing certificate of title on a motor vehicle was (i) not delivered to the dealer or (ii) was lost or misplaced on or prior to the date the dealer sells or transfers the motor vehicle, a first lienholder or his designee may file a notarized copy of an instrument creating and evidencing a security interest in the motor vehicle with the Division of Motor Vehicles. A filing pursuant to this subsection shall constitute constructive notice to all persons of the security interest in the motor vehicle described in the filing. The constructive notice shall be effective on the date of the security agreement if the filing is made within 20 days after the date of the security agreement. The constructive notice shall date from the date of the filing with the Division if it is made more than 20 days after the date of the security agreement. The notation of a security interest created under this subsection shall automatically expire 60 days after the date of the creation of the security interest, or upon perfection of the security interest as provided in subsection (a) of this section, whichever occurs first. A security interest notation made under this subsection and then later perfected under subsection (a) of this section shall be presumed to have been perfected on the date of the earlier filing. The Division may charge a fee not to exceed ten dollars (\$10.00) for each notation of security interest filed pursuant to this subsection. The fee shall be credited to the Highway Fund. It shall constitute a Class H felony for a person to knowingly and intentionally file a false notice with the Division pursuant to this subsection. A dealer principal, owner, or manager of a motor vehicle dealership who is not a signatory of the notice required under this subsection may only be charged for a criminal violation for filing a false notice with the Division under this subsection by another dealership employee if the dealer principal, owner, or manager had actual knowledge of the falsity of the filing at the time the filing was submitted to the Division.

(c) An application for the notation of a security interest pursuant to subsection (a) of this section on a certificate of title for a manufactured home shall state the maturity date of the secured obligation. The Division shall include the stated maturity date for the certificate of title, including the notation of the maturity date on the certificate of title, in its public records and in any reports regarding the certificate of title provided to third parties. For the purposes of this subsection, the maturity date of the security interest is defined in G.S. 45-36.24. (1937, c. 407, s. 22; 1955, c. 554, s. 2; 1961, c. 835, s. 6; 1969, c. 838, s. 1; 1975, c. 716, s. 5; 1979, c. 145, ss. 1, 2; c. 199; 2000-182, s. 2; 2016-59, s. 2; 2018-42, s. 2(b); 2018-145, s. 4; 2021-134, s. 7(a).)