

DRAFT
FOR DISCUSSION ONLY

UNIFORM CERTIFICATE OF TITLE ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM LAWS

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With Prefatory Note and Preliminary Comments

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ON UNIFORM LAWS

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UNIFORM CERTIFICATE OF TITLE ACT

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CERTIFICATE OF TITLE ACT

Prefatory Note

This Certificate of Title Act (Act) is intended to respond to several principal, though by no means exclusive, factors affecting transfers of interests in motor vehicles: Diversity of state treatment; the increasing use of electronic records, including efforts to reduce and prevent title and other vehicle fraud, and contracting; evolving commercial practices and current legal issues; and the impact of revised Article 9 of the Uniform Commercial Code.

Principal Purposes of the Act

Each year, on the order of 70 million motor vehicles are titled in the United States. While there is almost universal consistency in some industry standards, for example Vehicle Identification Number (VIN) usage, these vehicles are titled by the states under some sixteen separate types of systems, virtually none of which is entirely compatible with the others for purposes of information exchange and title interchange. The states also vary in designation of the officials who administer titles and transfers, and collect state taxes, and there are variations in the definitional scope of titling statutes. As with other states' records, the move from paper to electronic records is not uniform either within or among the states.

The increasing use of electronic records and contracting practices by public officials, industries, and consumers, has in some transactions rendered the paper certificate of title an anachronism. While some transactions, for example casual sales between individuals and some lending transactions, continue to require the use of paper certificates of title, in many other transactions involving vehicles from manufacture through salvage, none of the governments, manufacturers, financiers, owners/lessees, or others involved need be denied the convenience or economies of electronic records.

Industry practices have evolved significantly over the past decades, and many of those practices can be accommodated by electronic titling with no adverse impact on either transfers of interests or other statutes and regulations, for example, involving the collection of sales and use taxes, the requirements of safety inspections, and the disclosure of odometer information, which often piggyback on the title transfer process. Greater uniformity in the core principles governing title administration and the movement toward electronics will facilitate development of consistent approaches to information and title interchange and discourage fraud. Moreover, the recent revision and nationwide enactment of revised Uniform Commercial Code Article 9 has highlighted some related deficiencies with respect to existing certificate of title laws and regulations.

In addition, as business conditions and practices have evolved, state certificate of title laws that are nonuniform and sometimes outmoded have become inadequate to deal with current

and emerging issues. The need for a consistent informational structure and uniform rules dealing with common title problems has become increasingly apparent.

Responses to these conditions are among the primary purposes of this Act.

Electronic and Paper Titles — Enactment Flexibility

Because of state funding and a variety of other factors it would be unrealistic to expect (in the manner of the recent Article 9 revisions) simultaneous multi-state effectiveness of a statutory certificate of title revision. The states vary greatly in terms of the speed and extent of embracing the movement toward electronics. For these reasons, and because some important uses for paper certificates of title remain, the Act provides for parallel and compatible systems of electronic titles and paper titles; like revised Article 9, the Act is medium neutral, but it goes beyond mere neutrality to provide specific alternative and consistent legal structures for electronic and paper certificates of title and transactions, and addresses the relation between them.

Thus, the Act is intended to permit each enacting state the flexibility to adopt electronic titling practices on its own schedule and as available funds allow. The Act is also designed so that no significant transition periods are needed: it provides for simultaneous administration of fully complementary systems of electronic and paper certificates of title. Neither system interferes with the other, and a state could adopt or utilize an electronic title system at any time, or to any extent, or not at all, without disruption. Enactment will allow states with different systems and approaches to technology issues to achieve uniformity in law and information interchange while continuing their administrative and technological diversity. Enactment will facilitate consistency with Article 9, facilitate the interstate exchange of information and transfers of title, help resolve common titling problems, discourage title fraud, and promote greater consistency of titling law with commercial practice, to the benefit of all parties to transfers of interests in vehicles.

Study and Drafting History

In 1955, the Conference promulgated a motor vehicle title act which, although enacted by few states, has influenced the statutes of many. The factors enumerated at the beginning of this Prefatory Note suggested the need for a new look at the potential benefits of an updated uniform effort on this subject by the Conference.

Like all Conference legislative drafting efforts, the appointment of a drafting committee followed several years' work by a study committee, but in this instance the antecedents are even more extensive. For nearly all of the past decade, a Task Force of the Uniform Commercial Code Committee of the Business Law Section of the American Bar Association (ABA) has been devoted to study of the problems and opportunities attendant to certificate of title questions; the ABA Advisor to the Drafting Committee and the Reporter for this Act have been active in the leadership of that effort, and the Drafting Committee is drawing heavily on that ABA work.

To date the Drafting Committee also has been fortunate in the active interest shown by numerous Observers, particularly those who have attended — and indicate they will continue to attend — the meetings of the Drafting Committee. These Observers include representatives of manufacturers, importers, dealers, auctioneers, lessors, financiers, title and tag agents, consumers, state titling administrators and authorities, trade associations, the ABA, and various other public and private interests. Particularly important has been the information imparted to the Drafting Committee by these Observers about existing and possible future governmental, administrative, consumer, and industry practices and concerns, in effect describing the commercial, legal, and regulatory context within which the Act must fit.

Matters of Scope

After consideration, it was determined initially that the Act would not attempt to cover watercraft and premanufactured homes, largely due to a need to first resolve basic issues in the context of a specific and limited framework, and because of some perceived fundamental business background differences among the affected industries. However, representatives of segments of both industries have attended Committee meetings and this question of scope is under continuing evaluation. Also, the Drafting Committee is maintaining communications with regulators and financiers of all product industry segments, with a view to consistency and in recognition of the value of the experience of those parties with respect to certificate of title issues, and also in contemplation of the possibility of expanded scope at some later date.

Also, after consideration by the leadership of the Conference, the Drafting Committee, and Observers, this draft reflects affirmative determinations to leave substantially as is certain provisions of the existing states' laws. Perhaps most notable in this respect are title branding, which is diverse among the states in both substance and administration, "lemon laws," and laws relating directly to fraudulent activity, which are also diverse and combine local common law and criminal and civil statutory law. This draft requires notation and carry-forward of existing, known title brands, but does not seek to define those requirements. A section of this act (section 31) has been reserved for a possible, optional model provision if that is later deemed appropriate.

In light of the diversity, current and probably future, in various states' electronic systems and capabilities and the administration of those systems, the Drafting Committee has attempted to avoid to the extent possible mandating or affecting the technical details of the states' electronic systems, as distinguished from the information legally required to be maintained and furnished by those systems. Consistency is being attempted as well with systems in use by law enforcement and industry groups. Thus the goal of the draft is uniformity in information interchange and legal results, but not technology or specific operational procedures.

Title Fraud, Odometer Disclosure and the Like — Coordination with Federal and Other State Laws

Under the federal Anti Car Theft Act of 1992 and the Anti Car Theft Improvements Act of 1996, under the responsibility of the Department of Justice, the National Motor Vehicle Title Information System (NMVTIS) is being developed and tested, with information input from the states. In the words of the American Association of Motor Vehicle Administrators:

The Act specifies that the information within NMVTIS shall be available to jurisdictions; federal, state and local law enforcement officials; insurance carriers; and other prospective purchasers (e.g., individuals, auction companies, and used car dealers).

NMVTIS allows jurisdictions to verify the validity of titles prior to issuing new titles. This inhibits title fraud and auto theft by making it harder to title stolen vehicles. Law enforcement officials can get information on any particular vehicle or title, and also are provided access to junk yard and salvage yard information, allowing them to identify illegal activities. The consumer has access to the latest odometer reading and any current or former title brands related to the value and condition of a particular vehicle. This allows consumers to make more informed decisions on whether to buy a vehicle and at what purchase price. Businesses that are prospective purchasers (e.g., dealers or auctions) and insurance carriers also are allowed to get information on a vehicle. This information includes title history, odometer, and brand data, which allows them to make informed decisions on whether to buy or insure the vehicle.

Clearly, states' law enforcement and vehicle title administration agencies will have electronic tie-ins and coordination with NMVTIS, for, among other things, prevention of title and odometer fraud. This Act is intended to enable coordination with, rather than to duplicate, the federal initiative, by providing the means for state titling practices that are more consistent with the federal system.

Odometer disclosure laws, federal and state, are recognized by this Act, which is intended to facilitate a titling system to exist in coordination with those laws. Section 12 of this Act and the Reporter's Note thereunder describe the Act's accommodation of electronic disclosures to satisfy statutes written in contemplation, at the time of enactment, of paper disclosures.

Focus on Title Issues

Finally, the inherent limitations on the scope of this Act should be noted. It is recognized that not every type of problem involving vehicle sales and finance can be addressed in the Act. The focus of the Act is the legal structure for administration of certificate of title issues. The overall purpose is to create a consistent legal structure to facilitate efficient resolution of

common titling issues and the efficient handling of title-related transactions. The Act thus focuses on the duties, authority, and responsibilities of title administrators. To purport to resolve every issue that may arise in relationships between the parties to private transactions would be such an expansion of scope as to obscure the basic purpose of this Act and effectively preclude its uniform enactment. For example, many issues relating to sales contracts, security interests, and consumer protection are covered by the Uniform Commercial Code or consumer protection laws rather than this Act. The Act does not displace those laws as regards basic contract, tort law, or consumer protection issues.

Nonetheless, by providing for improved administrative rules and remedies governing title issues, creating better and more consistent data flows and information, and providing increased uniformity in the law, the Act will make certificates of title more meaningful and useful for all parties. The resulting increased integrity of the title system will benefit all involved.

1 **CERTIFICATE OF TITLE ACT**

2 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform Certificate of Title
3 Act.

4 **SECTION 2. APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW.**

5 Unless displaced by the particular provisions of this [act], the principles of law and equity,
6 including the law merchant and the law relative to capacity to contract, principal and agent,
7 estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or
8 invalidating cause supplement its provisions.

9 **Preliminary Comments**

10 This section is derived from Uniform Commercial Code (UCC) section 1-103(b). In
11 addition, like the UCC, this [act] should be liberally construed and applied to promote its
12 underlying purposes and policies, which are:

- 13
14 (1) to simplify, clarify, and modernize the law governing certificates of title;
15
16 (2) to permit the continued expansion of commercial practices through custom, usage,
17 and agreement of the parties; and
18
19 (3) to make uniform the law among the various jurisdictions.

20
21
22 **SECTION 3. DEFINITIONS.**

23 (a) In this [act]:

24 (1) “Buyer” means a person that buys or contracts to buy an ownership [interest] in a
25 vehicle.

26 (2) “Buyer in ordinary course of business” means a person that buys a vehicle in good
27 faith, without knowledge that the sale violates the rights of another person in the vehicle, and in
28 ordinary course from a person, other than a pawnbroker, in the business of selling vehicles of that

1 kind. A person buys a vehicle in ordinary course if the sale comports with the usual or customary
2 practices in the kind of business in which the seller is engaged or with the seller's own usual or
3 customary practices. [A buyer in ordinary course of business may buy for cash, by exchange of
4 other property, or on secured or unsecured credit, and may acquire a vehicle under a pre-existing
5 contract for sale. Only a buyer that takes possession of the vehicle or has a right to recover the
6 vehicle from the seller under [Uniform Commercial Code Article 2] may be a buyer in ordinary
7 course of business. "Buyer in ordinary course of business" does not include a person that
8 acquires a vehicle in a transfer in bulk or as security for or in total or partial satisfaction of a
9 money debt. A buyer in ordinary course of business does not lose that status solely because the
10 certificate of title was not executed to the buyer.]

11 [(3) "Cancel," with respect to a certificate of title or a certificate of origin, means to
12 make the certificate ineffective as a certificate of title or certificate of origin.]

13 (4) "Certificate of origin" means a record, created or authorized by a manufacturer or
14 importer as the manufacturer's or importer's proof of identity of the vehicle, which [contains] a
15 vehicle identification number and a description, including, as applicable, the make, model, model
16 year, and body type.

17 (5) "Certificate of title" means the record, created or authorized by the office, or,
18 when this [act] so provides, by an agency of another jurisdiction which is:

19 (A) evidence of ownership of a vehicle; and

20 (B) designated a certificate of title by the office that created or authorized it.

21 (6) "Create," with respect to a certificate of title, means that the office brings the
22 certificate of title into existence as follows:

1 (A) in the case of an electronic certificate of title, by making [or authorizing] the
2 record or records that constitute the electronic certificate of title; or

3 (B) in the case of a written certificate of title, by making [or authorizing] the
4 record or records that constitute the written certificate of title.

5 (7) “Delivery” means a voluntary [change] of possession of a record or its
6 transmission, by any reasonable means, properly addressed to the recipient and with the cost of
7 delivery provided. [In the case of an electronic record, the term means the transmission by
8 electronic means to the electronic mail address of the recipient.]

9 (8) “Electronic” means relating to technology having electrical, digital, magnetic,
10 wireless, optical, electromagnetic, or similar capabilities.

11 (9) “Electronic certificate of origin” means a certificate of origin [that is a record or
12 records] consisting of information stored solely in an electronic medium and retrievable in
13 perceivable form.

14 (10) “Electronic certificate of title” means a certificate of title that is a record or
15 records consisting of information that is stored solely in an electronic medium and retrievable in
16 perceivable form.

17 (11) “Execute” means to sign and deliver a record on, attached to, accompanying, or
18 logically associated with a certificate of title or certificate of origin [for the purpose of
19 transferring ownership of the vehicle covered by the certificate.]

20 (12) “Importer” means a person authorized by a manufacturer to sell in the United
21 States new vehicles manufactured outside the United States.

1 (13) “Lessee in ordinary course of business” means a person that leases a vehicle in
2 good faith, without knowledge that the lease violates the rights of another person, and in ordinary
3 course of business from a person, other than a pawnbroker, in the business of selling or leasing
4 vehicles of that kind. A person leases in ordinary course if the lease to the person comports with
5 the usual or customary practices in the kind of business in which the lessor is engaged or with the
6 lessor’s own usual and customary practices. A lessee in ordinary course of business may lease
7 for cash, by exchange of other property, or on secured or unsecured credit, and may acquire a
8 vehicle or certificate of title covering a vehicle under a preexisting lease contract. Only a lessee
9 that takes possession of the vehicle or has a right to recover the vehicle from the lessor under
10 [Uniform Commercial Code Article 2A] may be a lessee in ordinary course of business. A
11 person that acquires a vehicle in bulk or as security for or in total or partial satisfaction of a
12 money debt is not a lessee in ordinary course of business. [A lessee in ordinary course of
13 business does not lose that status solely because the certificate of title was not executed to the
14 lessee.]

15 (14) “Lien creditor” means:
16 (A) a creditor that has acquired a lien on the property involved by attachment,
17 levy, or the like;
18 (B) an assignee for the benefit of creditors from the time of assignment;
19 (C) a trustee in bankruptcy from the date of the filing of the petition; and
20 (D) a receiver in equity from the time of appointment.

21 (15) “Manufacturer” means a person that manufactures, fabricates, assembles, or
22 completes new vehicles. [The term includes a later-stage manufacturer.]

1 (16) “Office” means [insert name of relevant [department] [agency] in enacting
2 state].

3 (17) “Owner” means a person having an ownership [interest] in a vehicle, [or an
4 agent, nominee, or other representative acting or authorized to act for the person.]

5 (18) “Owner of record” means the owner [or owners] as indicated in the files of the
6 office.

7 (19) “Ownership” means legal title, as determined pursuant to this [act] as
8 supplemented by other law. The term [does] [may or may] not include a beneficial [or equitable]
9 ownership interest.

10 (20) “Person” means an individual, corporation, business trust, estate, trust,
11 partnership, limited liability company, association, joint venture, public corporation, government
12 or governmental subdivision, agency, or instrumentality, public corporation, or any other legal or
13 commercial entity.

14 (21) “Purchase” means taking by sale, lease, mortgage, pledge, [consensual] lien,
15 security interest, gift, or any other voluntary transaction that creates an interest in a vehicle.

16 (22) “Purchaser” means a person that takes by purchase.

17 (23) “Record” means information that is inscribed on a tangible medium or that is
18 stored in an electronic or other medium and is retrievable in perceivable form.

19 (24) “Secured party” means:

20 (A) a person in whose favor a security interest is created or provided for under a
21 security agreement, whether or not any obligation to be secured is outstanding;

22 (B) a person that is a consignor under [Uniform Commercial Code Article 9];

1 (C) a trustee, indenture trustee, agent, collateral agent, or other representative in
2 whose favor a security interest is created or provided for; or

3 (D) a person that holds a security interest arising under [Uniform Commercial
4 Code Section 2-401, 2-505, 2-711(3), or 2A-508(5)].

5 (25) “Secured party of record” means the first secured party indicated in the files of
6 the office.

7 (26) “Security interest” means an interest in goods that secures payment or
8 performance of an obligation. “Security interest” includes any interest of a [consignor and a
9 buyer of accounts, chattel paper, a payment intangible, or a promissory note] in a transaction that
10 is subject to [Uniform Commercial Code Article 9]. “Security interest” does not include the
11 special property interest of a buyer of goods on identification of those goods to a contract for sale
12 under [Uniform Commercial Code Section 2-401], but a buyer may also acquire a “security
13 interest” by complying with [Uniform Commercial Code Article 9]. Except as otherwise
14 provided in [Uniform Commercial Code Section 2-505], the right of a seller or lessor of goods
15 under [Uniform Commercial Code Article 2 or 2A] to retain or acquire possession of the goods is
16 not a “security interest,” but a seller or lessor may also acquire a “security interest” by complying
17 with [Uniform Commercial Code Article 9]. The retention or reservation of title by a seller of
18 goods notwithstanding shipment or delivery [of goods] to the buyer under [Uniform Commercial
19 Code Section 2-401] is limited in effect to a reservation of a “security interest.” Whether a
20 transaction in the form of a lease creates a “security interest” is determined pursuant to [Uniform
21 Commercial Code Section 1-203].

1 (27) “Security interest entry form” means a record or records, created or authorized by
2 a secured party, that meets the requirements of Section 26(b).

3 (28) “Sign” means, with present intent to authenticate or adopt a record, to:

- 4 (A) [make] or adopt a tangible symbol; or
5 (B) attach to or logically associate with the record an electronic sound, symbol,
6 or process.

7 (29) “Specialized mobile equipment” means mobile equipment not designed
8 [primarily] for the transportation of individuals or property upon a [road or] highway and only
9 incidentally operated or moved over a [road or] highway, including but not limited to: ditch
10 digging apparatus; well-boring apparatus; [construction equipment]; road construction and
11 maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors
12 other than truck tractors, ditchers, levelling graders, finishing machines, motor graders, road
13 rollers, scarifiers, earth-moving carry-alls and scrapers, power shovels, and drag lines; self-
14 propelled cranes; and earth-moving equipment. The term does not include a house trailer, dump
15 truck, truck-mounted transit mixer, truck-mounted crane or shovel, or other mobile equipment
16 designed for the transportation [on a road or highway] of individuals or property [to which
17 machinery has been attached.]

18 (30) “State” means a state of the United States, the District of Columbia, Puerto
19 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
20 jurisdiction of the United States.

21 (31) “Termination statement” means a record or records, created or authorized by the
22 secured party which:

(A) identifies the security interest entry form to which it relates; and
(B) indicates either that it is a termination statement or that the identified security interest entry form is no longer effective.

(32) “Title brand” means any designation of previous damage, use, or condition that [this [act] or] law other than this [act] requires to be indicated on a certificate of title [or a certificate of origin.]

(33) “Transfer” means to convey, voluntarily or involuntarily, an interest in a vehicle.

(34) “Transferee” means a person that takes by transfer.

(35) “Vehicle” means any type of motorized, wheeled device in, upon, or by which an individual or property may be lawfully and customarily transported on a road or highway, or a commercial, recreational, travel, or other trailer. The term does not include:

- [(A) manufactured housing;]
- (B) an implement of husbandry;
- (C) a [motorized] wheelchair or similar device designed for use by an individual having a physical impairment; or
- (D) specialized mobile equipment.

(36) “Written certificate of origin” means a certificate of origin [that is a record or records] consisting of information that is inscribed on a tangible medium.

(37) “Written certificate of title” means a certificate of title [that is a record or records] consisting of information that is inscribed on a tangible medium.

(b) The following definitions in other laws apply to this [act]:

- (1) “Agreement,” UCC Section 1-201(b)(3).

- (2) “Collateral,” UCC Section 9-102(a)(12).
- (3) “Debtor,” UCC Section 9-102(a)(28).
- (4) “Domestic transaction,” UCC Section 1-301(a)(1).
- (5) “Good faith,” UCC Section 1-201(b)(20).
- (6) “Location of debtor,” UCC Section 9-307.
- (7) “Merchant,” UCC Section 2-104(1).
- (8) “Notice; Knowledge,” UCC Section 1-202.
- (9) “Representative,” UCC Section 1-201(b)(33).
- (10) “Seller,” UCC Section 2-103(1)(o).
- (11) “Send,” UCC Section 1-201(b)(36).
- (12) “Value,” UCC Section 1-204.

Legislative Note:

If a state has not enacted the 2002 uniform text of Article 1, the references to Article 1 section numbers will need to be adjusted to reflect state law.

Preliminary Comments

The definition at Section 3(a)(2) incorporates revised Uniform Commercial Code (UCC) Article 1 Section 1-201(b)(9) (2002 uniform text).

Section 3(a)(2) makes clear that a certificate of origin is a temporary record that describes the vehicle, its manufacturer, and each seller and purchaser during the period between manufacture of the vehicle and creation of the first certificate of title. A certificate of origin may be created or authorized by the manufacturer or, in the case of a vehicle manufactured outside the United States, by the importer of the vehicle. The certificate of origin is submitted to the office that creates the first certificate of title and is to be cancelled at that time. *See also* Sections 6, 7, 8, 12, 13, and 21.

The definition of “Certificate of title” at Section 3(a)(5) is similar to those in many state certificate of title laws, in that it recognizes the certificate of title as evidence of ownership. Portions of the definition are also derived from UCC Article 9 Section 9-102(a)(10). One change

1 is to define certificate of title as a “record,” meaning it can be in either paper or electronic form.
2 The definition of “certificate of origin” is similar in this regard.
3

4 In addition this definition of certificate of title includes receipt by the office of a security
5 interest entry form pursuant to Section 26. This is needed because it may be necessary to perfect
6 a security interest pursuant to Section 27(a), by receipt of a security interest entry form under
7 Section 26, before the office has received an application for a certificate of title under Section 7
8 and 8. Thus, in the absence of a certificate of title created under Sections 8 and 9, a security
9 interest entry form received pursuant to Section 26 will create a certificate of title for purposes of
10 this [act], including choice of law under Section 4 and perfection under Section 27.
11

12 The definition requires a certificate of title to have four basic elements: (1) a record; (2)
13 created or authorized by the appropriate office of this State; (3) evidencing title to a vehicle or
14 indicating perfection of a security interest; and (4) created pursuant to provisions in this [act]
15 providing (in conjunction with UCC Article 9) for perfection of security interests. *See also* the
16 requirements for creation of a certificate of title pursuant to this [act], at Sections 8, 9, and 10;
17 provisions governing security interest entry forms at Sections 26, 27, and 28; choice of law rules
18 at Section 3.
19

20 The definition of “certificate of title” is different from UCC Article 9 Section 9-102(a)(10) in
21 some important ways. The Article 9 definition incorporates by reference the standards of the
22 applicable certificate of title law. COTA is that law, and therefore cannot directly use the Article
23 9 incorporation-by-reference approach. Moreover, as noted this [act] provides for perfection of a
24 security interest on receipt by the office of a security interest entry form, subject to the additional
25 UCC Article 9 requirements, even if the security interest is not otherwise indicated on a
26 certificate of title or in the office files or the office never receives an application for a certificate
27 of title. *See* Sections 3(b), 8, 26, and 27. While this is consistent with Article 9 Section 9-
28 102(a)(10), this [act] requires a definition that directly encompasses these functions, while
29 Article 9 can simply tie into this [act] by reference. Therefore, receipt by the office of a security
30 interest entry form pursuant to Section 26 creates a certificate of title within the definition at
31 Section 3(a)(5), and triggers application of this [act] pursuant to Section 4, even if there is no
32 other record covering the vehicle in the files of the office.
33

34 Pursuant to Section 10(c), the certificate of title must provide for reassignment of title by
35 execution of the certificate of title, or a related form, including dealer reassignments and secured
36 powers of attorney, *e.g.*, by execution of a form that is part of or related to the certificate of title.
37 *See* the definition of “execute.”
38

39 Section 3(a)(6) defines what it means to “create” a certificate of title. This definition relates
40 to other definitions and provisions of this [act]. *See, e.g.*, the definitions of “Electronic
41 certificate of title” and “Written certificate of title,” Section (3)(a)(10) and (35); Section 9
42 (obligation of the office to create a certificate of title). As noted, an application for a certificate
43 of title can be created by receipt in the office of a security interest entry form. *See* Sections 4, 26,

1 27, and 28. A certificate of title can also be created by the office making a file pursuant to
2 Sections 8, 9, and 10, or by issuance of a written certificate of title pursuant to those sections.
3

4 Under Section 3(a)(10), “Electronic certificate of title” designates a certificate of title that
5 meets all requirements in the definition of a certificate of title and is only in electronic form. *See*
6 *also* Section 10 and Section 23. This definition is modeled on the UCC Article 9 definition of
7 “Electronic chattel paper” at Section 9-102(a)(31). The general purpose is to create a parallel
8 system for electronic certificates of title, somewhat like that for electronic chattel paper in Article
9 9, while continuing to recognize the traditional primacy of a written certificate of title if one
10 exists. *See* Sections 14, 17, 19, 24-27; and the definition at Section 3(a)(35).
11

12 The definition of “execute” at Section 3(a)(11) applies only when used to denote execution of
13 a certificate of title or certificate of origin and not, *e.g.*, as the term is used in Section 3(a)(26).
14

15 The definition of “lien creditor” at Section 3(a)(14) is taken directly from UCC Article 9
16 Section 9-102(a)(52), for purposes of consistency with the UCC. By its terms the list of
17 examples at Section 3(a)(14)(A) is illustrative, not exclusive. Other examples include a
18 garnishor or judgment lien creditor.
19

20 The definition of “person” at Section 3(a)(20) is taken from UCC Article 1 Section 1-
21 201(b)(27), for purposes of consistency with the UCC. The list is illustrative, not exclusive.
22 Another example would be the trustee of a statutory trust.
23

24 The definition of “Purchase” at Section 3(a)(21) is identical to UCC Section 1-201(b)(29)
25 (2002 uniform text), for purposes of consistency; *see also* Section 1-201(32) of old Article 1.
26 Some parts of this definition are directed at purchases of instruments or investment securities or
27 the like, and may not be applicable to vehicles, *e.g.*, the words “discount,” “negotiation,” and
28 “issue or reissue.” The UCC definition is nonetheless included in its entirety for purposes of
29 consistency with the UCC.
30

31 The definition of “Purchaser” at Section 3(a)(22) is identical to UCC Article 1 Section 1-
32 201(b)(30) (2002 uniform text), for purposes of consistency with the UCC.
33

34 The terms “Transfer” and “Transferee” at Section 3(a)(31) and (32) denote any conveyance of
35 an interest, whether voluntary or by operation of law, in contrast to a “purchase,” which denotes a
36 voluntary conveyance.
37

38 Two fundamental purposes are evident in these definitions: (1) Allowing purely electronic
39 certificates of title and origin and related documentation (with a tiered option provided at
40 Sections 8, 9, 10, and 19 to allow certain persons to request a paper certificate); and (2) an
41 allowing some transactions relating to written certificates of title to be conducted electronically
42 (*e.g.*, assigning certificates of origin, and perfection of security interests under Sections 26 and

27). Thus electronic records may be used to effectuate electronic transactions, and also transactions that involve written certificates of title.

This draft contemplates the filing of paper and electronic security interest entry forms to perfect security interests (Sections 26 and 27), and conducting security interest and title searches, without any other certificate of title, based on the files of the state certificate of title agency (designated herein the office). *See* Sections 4, 23 and 26. The official records of the office are designated “files,” to avoid confusion with the defined term “record.”

Thus “certificate of title” means any form of “record” meeting the requirements for a certificate of title but not necessarily either a written or electronic certificate of title. It also includes receipt by the office of a security interest entry form, pursuant to Sections 4 and 26. An electronic certificate of title is a certificate of title being maintained solely in electronic form; a written certificate of title is one that exists in written form. Note that, unless stated otherwise (as in Section 3), “certificate of title” means one created in this state.

Aside from the bracketed language, the definition of “secured party” at Section 3(a)(25) is identical to UCC Article 9 Section 9-102(a)(72).

The definition of “sign” at Section 3(a)(28) is derived from the definition of “signed” in UCC Article 1 Section 1-201(b)(37) (2002 uniform text) and the definition of “electronic signature” in the Uniform Electronic Transaction Act (UETA) Section 3(8). It is intended to encompass both electronic and written signatures. As used in Section 3(a)(27), the term “execute” is derived from UCC Article 1 Section 1-201(b)(37) and is intended to have its common meaning, as used in Article 1, and not that in the definition at Section 3(a)(11) of this [act].

SECTION 4. LAW GOVERNING VEHICLES COVERED BY CERTIFICATE OF TITLE OR CERTIFICATE OF ORIGIN.

(a) For the purposes of subsections (b), (d), and (e), “certificate of title” means a certificate of title as defined in Section 3(a)(5), or a [certificate of title] created or authorized by a government agency of any jurisdiction which is permitted to create or authorize a certificate of title.

(b) The local law of the jurisdiction under whose certificate of title a vehicle is covered governs all issues relating to the certificate of title, from the time the vehicle becomes covered by

1 the certificate of title until the vehicle ceases to be covered by the certificate of title, even if there
2 is no other relationship between the jurisdiction and the vehicle or its owner.

3 (c) A vehicle becomes covered by a certificate of title when an application for a
4 certificate of title and the applicable fee are received by the office in accordance with this [act].

5 (d) For purposes of this section, receipt of a security interest entry form that meets the
6 requirements of Section 26 constitutes an application for a certificate of title. A security interest
7 entry form is sufficient for this purpose only if the location of debtor is in this state or the debtor
8 has a place of business in this state, and an existing certificate of title covering the vehicle has
9 not been created in another state.

10 (e) A vehicle ceases to be covered by a certificate of title in this state at the earlier of the
11 time the certificate of title ceases to be effective under this [act] or the time the vehicle
12 subsequently becomes covered by a certificate of title, other than a certificate of title initiated
13 only by a security interest entry form, created in another state.

14 (f) Except as otherwise provided in this section, if a vehicle is not covered by a
15 certificate of title, but a certificate of origin has been created for the vehicle, this [act] applies to
16 the certificate of origin if the parties have chosen the law of this state, even if this state bears no
17 other relation to the certificate of origin.

18 (g) If a vehicle is not covered by a certificate of title, in the absence of an agreement
19 effective under subsection (d), the rights and obligations of the parties are determined by the law
20 that would be selected by application of this state's conflict of laws principles.

Preliminary Comments

Subsections (a) and (b) are derived from UCC Section 9-303. One purpose of this [act] is to conform to and avoid conflicts with the UCC, including Article 9.

The language of Section 9-303 has been revised in subsections (a) and (b) to limit the application of this [act] to “vehicles” (as defined in Section 2(a)(28)) rather than applying to “goods” as in Article 9 Section 9-303. This reflects the limitation of this [act] to vehicles. *See, e.g.,* Sections 3(a)(4), 3(a)(5), 3(a)(15), 3(a)(35), 8-10, 19. Other deviations from Section 9-303 were also necessary, but the language of subsections (a) and (b) tracks Section 9-303 as closely as possible.

As a result of the definitions at Section 3, and the scope and choice of law provisions at Section 4, this [act] would apply only to a “vehicle” that is “covered” by a “certificate of title” created in this state.

A vehicle becomes covered by a certificate of title when an application or a security interest entry form and any required fees are delivered to the office in accordance with the requirements of this [act]. *See* Sections 8, 9, 26, 27 and 28. At that time this [act] would apply to all issues relating to the certificate of title or otherwise governed by this [act]. *See* Sections 26, 27, and 28 regarding the effect of a security interest entry form. Section 4 provides a choice of law to establish the applicability of Sections 8, 9, 26, 27, and 28.

Receipt by the office of a security interest entry form constitutes an application for a certificate of title, and under subsection (c) the vehicle becomes covered by a certificate of title at that time, making the [act] applicable under subsection (b) and (if all other requirements are met) perfecting the security interest under Sections 26 and 27. If the debtor subsequently obtains a certificate of title in another state, this security interest will remain perfected under this [act] and Article 9 Section 9-316(d), even if a certificate of title was never created in this state. The priority of the security interest would be determined under Article 9.

Subsections (d) and (e) are derived from revised UCC Article 1 Section 1-301(c) and (d) (2002 uniform text). They provide a back-up rule to subsections (a) and (b), applicable if there is no certificate of title (or application for a certificate of title under subsection (c)) to trigger subsections (a) and (b). Thus, *e.g.,* subsections (d) and (e) provide for general choice of law rules to apply to certificates of origin, which are not created by a state, prior to creation of or application for a certificate of title.

Definitional Cross Reference:

“Certificate of title.” Section 3(a)(5).

“Domestic transaction.” UCC Section 1-301(a)(1).

1
2 “International transaction.” UCC Section 1-301(a)(2).

3
4 “Receipt of Security Interest Entry Form.” Section 26.

5
6
7 **SECTION 5. EXCLUSIONS.** Unless the vehicle is covered by a certificate of title, this
8 [act] does not apply to a vehicle owned by the United States, the government of a country other
9 than the United States, an Indian tribe, this state, or a [local government] in this state.

10 **Preliminary Comments**

11 This section is derived from the Uniform Motor Vehicle Certificate of Title and Anti-Theft
12 Act of 1955 (UMVCT) Section 2. UMVCT Section 2 additionally provides specific exclusions
13 for construction equipment, farm equipment, golf carts, boat trailers, and the like. These have
14 been removed from Section 4, as redundant in view of the definition of “vehicle” at
15 Section 3(a)(35).

16
17
18 **SECTION 6. VEHICLE IDENTIFICATION NUMBER.** The office must record as the
19 vehicle identification number [in the files of the office] the vehicle identification number
20 assigned by its manufacturer or importer.

21 **Preliminary Comments**

22 The standards governing vehicle identification numbers, as reflected on certificates of origin
23 and certificates of title, are derived from industry and title administrator practices. Departure
24 from these practices could be a basis for objection by a purchaser or the office under law other
25 than this [act]. *See, e.g.*, revised Article 1 Section 1-303 (2002 uniform text) (old Article 1
26 Section 1-205). A purpose of this [act] is to provide legal principles consistent with these
27 practices.

28
29
30 **SECTION 7. CERTIFICATE OF ORIGIN.**

31 (a) The manufacturer or importer that creates or is authorized or required to create a
32 certificate of origin for a vehicle, upon transfer of ownership of the vehicle, shall execute a

1 certificate of origin to the transferee or deliver an executed certificate of origin to the office.

2 Each succeeding transferor shall execute to the next transferee or sign and deliver to the office all
3 known certificates of origin covering the vehicle.

4 (b) For purposes of obtaining a certificate of title, a buyer may require that its transferor
5 execute to it a written certificate of origin. If a written certificate of origin is created, any
6 electronic certificate of origin covering the vehicle is cancelled and replaced by the written
7 certificate of origin.

8 Preliminary Comments

9 This section allows creation of a certificate of origin by a third party (*e.g.*, a dealer or
10 importer) upon authorization by the manufacturer or importer. It also requires each transferor to
11 execute any outstanding certificates of origin to the transferee.

12
13 *See* Section 4(d) and (e) for the choice of law rules that determine whether this [act] applies
14 to a certificate of origin.

15
16 A “later stage manufacturer” is a purchaser to which ownership of a vehicle is transferred for
17 further manufacture, including fabrication, assembly, or other completion.

18
19 Under this section, if a manufacturer or importer of a new vehicle transfers ownership of the
20 vehicle to a later stage manufacturer, the manufacturer or importer is required to execute to the
21 later stage manufacturer any known certificate of origin covering the vehicle or required to be
22 created by agreement or under other law. If a later stage manufacturer transfers ownership of a
23 new vehicle to another later stage manufacturer or to a dealer, distributor, or other purchaser, the
24 transferor is required to execute all known certificates of origin to the purchaser.

25
26 And if a dealer, distributor, or other purchaser transfers ownership of a new vehicle after
27 manufacture by a later stage manufacturer, the transferor is required execute to the next purchaser
28 all known certificates of origin covering the vehicle. Thus, Section 6 accommodates a multiple-
29 step manufacturing and sales process (*e.g.*, transfers between an initial manufacturer and possibly
30 multiple subsequent manufacturers, dealers, etc., plus a sale by a dealer to the end-user)
31 involving certificates of origin.

1 **Definitional Cross Reference:**

2 “Buyer.” Section 3(a)(1).

3 “Create.” Section 3(a)(6).

4 “Delivery.” Section 3(a)(7).

5 “Execute.” Section 3(a)(11).

6 “Sign.” Section 3(a)(28).

7 “Transfer.” Section 3(a)(33).

8 “Transferee.” Section 3(a)(34).

9

10 **SECTION 8. APPLICATION FOR CERTIFICATE OF TITLE.**

11 (a) Subject to Section 18, an application for a certificate of title:

12 (1) must contain:

13 (A) the applicant’s name and physical address, and, if different, an address for
14 receiving written communications;

15 (B) the vehicle identification number;

16 (C) as required by the office, the make, model, model year, and body type;

17 (D) an indication of all security interests in the vehicle which are known to the
18 applicant;

19 (E) any title brand known to the applicant;

20 (F) if a transfer, the transferor’s and transferee’s names, physical addresses, and,
21 if different, addresses for receiving written communications, and the date of the
22 transfer; and

1 (G) if the application includes a direction to terminate a security interest entry
2 form, the secured party's name and address for receiving communications; and
3 (2) if a transfer, may contain electronic communication addresses of the transferor
4 and transferee.

5 (b) If application for a certificate of title includes a transfer of ownership or a direction to
6 terminate a security interest entry form, except as otherwise provided in Section 20, 21, or 24, the
7 application for a certificate of title must be accompanied by all known, existing certificates of
8 origin and certificates of title covering the vehicle, created or authorized in any jurisdiction,
9 executed to the applicant or other transferee by the transferor. If the application includes a
10 direction to terminate a security interest entry form, except as otherwise provided in Section 24,
11 the application must be accompanied by a termination statement under Section 28.

12 (c) If the application does not include a transfer of ownership or a direction to terminate a
13 security interest entry form, except as otherwise provided in Section 25, an application for a
14 certificate of title must be accompanied by all known, existing certificates of origin and
15 certificates of title covering the vehicle, created or authorized in any jurisdiction, indicating the
16 applicant as owner of the vehicle.

17 (d) If there is no known, existing certificate of origin or certificate of title covering the
18 vehicle, created or authorized in any jurisdiction, the application must be accompanied by all
19 known, existing [information or] records of the vehicle's ownership. [Information from these
20 sources is part of the application for the certificate of title and must be indicated [retained] in the
21 files of the office.]

22 (e) A power of attorney, [including a simple power of attorney,] may be used in meeting

1 the requirements of this section, except as required under law other than this [act].

2 (f) [AAMVA photo copy procedure -- Jim Nance 703-522-4200]

3 (g) A security interest entry form is an application for a certificate of title for purposes of
4 Section 4, but is not subject to this section.

5 (h) The office may not refuse to accept an application for a certificate of title in the
6 following form and format except for a reason set forth in Section 9:

APPLICATION FOR
[STATE] CERTIFICATE OF
TITLE FOR A VEHICLE

Place Motor
Vehicle Tax
Stamp Here

Vehicle Model Year and Make: _____

Body Type: _____ Model: _____

Vehicle Identification Number: _____

License Tag: _____ Decal Number: _____

License Tag Expiration Month: _____

Sales Price: \$ _____

(Note: Sales price is not to include any credit or discount given for a trade in. Sales price verification documentation is required when titling a new vehicle.)

Applicant's Name[s] (Transferee if a transfer): _____

Physical Address: _____

City: _____ State: _____ Zip: _____

Address for receiving communications, if different: _____

Drivers license numbers of all applicants or, if applicant is not an individual, the applicant's Federal Employer Identification number: _____

Name of Seller or Other Transferor: _____

Physical Address: _____

City: _____ State: _____ Zip: _____

Address for receiving communications, if different: _____

THIS VEHICLE IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF:

Name: _____ Name: _____

Address: _____ Address: _____

City: _____ State: _____ Zip: _____ City: _____ State: _____ Zip: _____

Date paid in full (if applicable): _____

Known Title Brands: _____

I, the undersigned, under the penalties of perjury do solemnly swear (or affirm) that I am the owner or legal agent of the owner of the above described vehicle and that the statements contained herein are true.

Applicant or Legal Agent of Applicant

Applicant or Legal Agent of Applicant

State _____, County of _____ §: _____

Subscribed and sworn to before me this _____ day of _____, _____

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7

This section provides the basic requirements for an application for a certificate of title. It is supplemented by Sections 14, 20, 21, 24, and 25, which provide separate requirements for certain specified circumstances, *e.g.*, an application under Section 25 for a replacement certificate of title when the previous certificate of title has been lost, stolen, or destroyed.

**SECTION 9. CREATION OF, REFUSAL TO CREATE, AND REVOCATION OF
CERTIFICATE OF TITLE.**

(a) Except as otherwise provided in this section, upon submission of the information required for an application pursuant to Section 8, and payment of all applicable fees and taxes, the office shall create a certificate of title. The certificate of title must show the transferee as owner of record and the existence of any outstanding security interests disclosed under Section 8 or for which the office has received a security interest entry form under Section 26, or which is otherwise indicated in the files of the office [or on a certificate of title created in any jurisdiction and submitted to the office].

26

1 (c) The office may reject an application for a certificate of title only:

2 (1) for a failure to satisfy the requirements of Section 8; or

3 (2) if [there is credible information submitted to the office that] [there are grounds for
4 concluding that] the application is fraudulent or would facilitate a fraudulent or illegal act or the
5 application otherwise fails to comply with law other than this [act].

6 (d) Rejection of an application affects only the applicant's ownership and does not alter
7 the receipt or effects of a security interest entry form under Sections 4, 26, and 27.

8 (e) If the office has created a certificate of title, it may revoke the certificate of title only
9 for a failure of the application to meet the requirements of this [act], after providing an
10 opportunity for a hearing, at which the applicant and any other interested party may present
11 evidence in support of the application. The office shall provide at least [30] days' notice of the
12 opportunity for a hearing, served [in person or sent by regular mail] [as required for service of
13 process in a civil action] to the applicant and to the owner of record and all secured parties
14 indicated in the files of the office. Revocation of a certificate of title pursuant to this section
15 affects only the ownership entered on the certificate of title. Revocation does not alter the receipt
16 or effects of a security interest entry form under Sections 4, 26, and 27 or [Uniform Commercial
17 Code Article 9].

18 Preliminary Comments

19 *See also* the standards for delivery of a certificate of title at Section 19. The determination of
20 the first secured party as indicated in the files of the office is an administrative matter for
21 purposes of this section, and is not determinative of priority issues for purposes of UCC
22 Article 9. The effect of a security interest entry form is governed by Sections 4 and 27.

23
24 This section requires the office to create a certificate of title pursuant this [act], upon
25 submission of an application meeting the requirements of Section 8, 9, 20, 21, 24, or 25.

1 Other provisions, for example Section 15 (Adverse Claims) and Section 17 (Transferee of
2 Vehicle Covered by Certificate of Title) provide substantive rules to govern the resolution of
3 competing claims, *e.g.*, in contract disputes, but are not intended to be addressed or resolved by
4 the office in the application process.

5
6 The office should not be liable for violation of these standards in creating or refusing to
7 create a certificate of title, as long as it acted in good faith; however, these standards will be
8 applicable in the event that there is judicial review of a decision of the office to create or refuse
9 to create a certificate of title.

11 **SECTION 10. CONTENTS OF CERTIFICATE OF TITLE.**

12 (a) Except as otherwise provided in Section 18, a certificate of title must contain:

13 (1) the date the certificate of title was created;

14 (2) the name and physical address of the owner of record, and the mailing address of
15 the owner of record, if different;

16 (3) except as otherwise provided in Section 27(b), the name and address of the
17 secured party of record showing that status and an indication of the existence of any additional
18 security interests;

19 (4) the vehicle identification number;

20 (5) a description of the vehicle including, as required by the office, make, model,
21 model year, and body type;

22 (6) the vehicle's odometer reading at the time of the latest transfer of ownership, if
23 required by Section 12 [and] law other than this [act]; and

24 (7) all title brands known to the office, as required by [this act or] law other than this
25 [act], including brands previously indicated on a certificate of title or certificate of origin created
26 in this state or another jurisdiction or in an application submitted pursuant to Section 8.

1 (b) The indication of a title brand on the certificate of title may use abbreviations, but not
2 symbols, and must identify the jurisdiction that originated the title brand. If the meaning of the
3 previous title brand is not easily ascertainable or cannot be accommodated on the certificate of
4 title, the certificate of title may state: “Previously branded in [jurisdiction that previously
5 indicated the title brand].”

6 (c) If a vehicle was previously registered for use in a jurisdiction outside the United
7 States, the office shall include a notation on the certificate of title indicating that the vehicle was
8 previously registered in that jurisdiction.

9 (d) A certificate of title must provide a form for subsequent execution of the certificate by
10 the owner.

11 Preliminary Comments

12 “Title brand” is defined in Section 3(a)(32). *See also* Section 8, requiring any known title
13 brand to be identified in the application for a certificate of title. Any title brand included on the
14 certificate of title should be described using plain language or common abbreviations, not codes
15 or symbols, so as to be readily understandable in any state. Section 31 is reserved for a state that
16 wants to incorporate its title brand requirements in this [act].
17

18 In common usage, a “title brand” is a notation on the face of a certificate of title that provides
19 notice to subsequent purchasers of the damage, condition, or prior use of the vehicle. The 51
20 U.S. titling jurisdictions use a wide variety of terms or symbols to brand titles. This [act] does
21 not define the specific types of damage or condition that typically give rise to title branding
22 requirements under state law. Previous efforts to establish standard definitions for terms such as
23 “salvage vehicle,” “flood vehicle,” or “rebuilt salvage vehicle” have been contentious.
24

25 Other law of this or another state will determine if a title brand is required. If a title brand is
26 required, this [act] requires the use of words or abbreviations rather than symbols to denote the
27 title brand. Furthermore, once a title brand is required, this [act] requires that the title brand
28 appear on the face of the certificate of title and all subsequent certificates of title issued for the
29 same vehicle by the State. Additionally, once a title brand is required, the title brand of one state
30 must be “carried forward” on the face of a certificate of title subsequently issued by any other
31 state with respect to the same vehicle.
32

**SECTION 11. CERTIFICATE OF TITLE AND CERTIFICATE OF ORIGIN NOT
SUBJECT TO JUDICIAL PROCESS.**

(a) This [act] does not prohibit or preclude a lawful repossession of or levy on a vehicle or attaching and foreclosing of a statutory or common law lien on a vehicle. However, a certificate of title or a certificate of origin does not by itself provide a right or a means to obtain possession of the vehicle covered by the certificate, and is not itself subject to garnishment, attachment, levy, replevin, or other judicial process against property. The absence of an indication of a statutory or common law lien on a certificate of title does not invalidate the statutory or common law lien.

(b) This section does not relieve a person of any duty under this [act] or law other than this [act], or preclude any in personam remedies.

Preliminary Comments

This section is derived from Section 9 of the UMVCT. It makes clear that enforcement of a lien by judicial process must be effected against the goods, not the certificate of title. This section does not bar mandatory injunctive or other in personam relief against a person wrongfully withholding a certificate of title, *e.g.*, a turn-over order following a successful replevin action. In addition, if a certificate of title is being wrongly withheld by a third party, there may be recourse under Section 16, 17, 19, 20, 21, 24, or 25. For example, a lien creditor could seek possession of the vehicle using legal process, and then obtain a certificate of title under Section 21 or 24; a buyer whose seller wrongfully fails to execute the certificate of title can obtain a new title under Section 24.

[Although a lien is not invalidated by its omission from the certificate of title, a transferee who takes by execution of the certificate of title may take free and clear of a lien not noted on the certificate of title, under Section 16.]

1 **SECTION 12. ODOMETER DISCLOSURE.**

2 (a) If required under federal law a certificate of title, when created and when executed,
3 must contain or be accompanied by a disclosure of the vehicle's odometer reading, and other
4 information as required to be provided by the transferor when ownership of the vehicle is
5 transferred. The disclosure must provide a space for any other information required to be
6 disclosed on or to accompany the certificate of title under law other than this [act].

7 (b) Signing a record that provides the information required for disclosure of an odometer
8 reading under federal law satisfies the requirements of this section[, but this [act] is otherwise
9 subject to [refer to state odometer law]].

10 **Preliminary Comments**

11 The purpose of this section is to recognize the requirements of the Motor Vehicle Information
12 and Cost Savings Act, 15 U.S.C. Section 1988, as implemented by the National Highway Traffic
13 Safety Administration (NHTSA) at 49 C.F.R. Part 580 (Odometer Disclosure Requirements).
14 This federal odometer mileage disclosure law requires certain vehicle mileage disclosures to be
15 made upon transfer of title to a vehicle. *See, e.g.,* 49 C.F.R. Section 580.5. The disclosures must
16 be made "in writing" on the certificate of title or other document being used to transfer
17 ownership. *Id.*

18
19 It is not necessary for this [act] to restate or specifically incorporate these federal law
20 requirements. However, a general reference to those requirements may be helpful in alerting
21 interested parties to the federal requirements. That is one purpose of this section.

22
23 In addition, there has been some uncertainty about the impact of the federal requirement that
24 the disclosures be "in writing," *see, e.g.,* 49 C.F.R. Section 580.5(c), particularly as regards
25 electronic certificates of title. This has now been clarified somewhat. The NHTSA has indicated
26 that an electronic disclosure containing the proper information will satisfy the federal written
27 disclosure requirement at 49 C.F.R. Section 580.7 for a lessee-to-lessor transfer. This
28 requirement is similar but not identical to the written disclosure requirement for other transfers,
29 *e.g.,* at 49 C.F.R. Section 580.5, providing some indication that an electronic disclosure satisfies
30 the federal requirement for a "writing." *See* letter to Edwin E. Huddleson, II, General Counsel,
31 American Automobile Leasing Association, from Jacqueline Glassman, Chief Counsel, National
32 Highway Traffic Safety Administration (April 25, 2003). This is consistent with the federal
33 Electronic Signatures in Global and National Commerce Act (ESIGN), Pub. L. 106-229 (June 30,

2000), codified at 15 U.S.C. § 7001 *et seq.* Further clarification is being sought.

Thus it is possible that transactions involving electronic certificates of title can be executed entirely by electronic means, including the federal odometer mileage disclosures required under 49 C.F.R. Part 580.

SECTION 13. SUBMISSION OF ADDITIONAL INFORMATION.

(a) Even if the requirements for a certificate of title or an application for a certificate of title covering a vehicle have not been met, the office may accept submissions of information relating to the vehicle for indication in the files of the office.

(b) A submission of information under this section must include, to the extent practicable, the information Section 8 requires for an application for a certificate of title. If the vehicle is subject to a lease, the office may require the submission of the lessee's name and address and the termination date of the lease, and may then designate the lessee or the lessor, or both, as a person to receive information relating to the vehicle or certificate of title.

(c) As a condition of receiving information under this section, [to effectuate the law of this state] the office may require the applicant to provide any other information and documentation, and may require a bond in the form and amount determined by the office. The bond must provide for indemnification [of any secured party or other interested party] against any expense, loss, or damage resulting from the submission and indication in the files of the office of the information.

(d) A submission of information under this section and its indication in the files of the office is not a certificate of title and does not provide a basis for transferring or determining ownership of a vehicle.

[(e) Law other than this [act] may require submission of information under this section as the basis for payment of excise taxes relating to vehicles or fees required for issuance or renewal of license tags.]

Preliminary Comments

The purpose of this section is to allow a procedure for registration of information by the office for purposes not related to certificate of title transactions. Some states use registration as a trigger for other laws or requirements, *e.g.*, relating to taxes or exhaust emissions. This section accommodates that function. An example would be the need of a lessee to register in order to purchase or renew license tags for a vehicle owned by the lessor. This section would permit the lessor to provide registration information to the lessee or the office, who could then register the information in order to allow the purchase of license tags. Another example would be a purchaser of a vehicle who cannot satisfy the requirements for application of a certificate of title but can provide sufficient registration information to the office to permit the purchase of license tags for the vehicle. The office should be cautious to limit the use of registrations and not allow this procedure to be used as a substitute for certificates of title.

This section is derived partially from the UMVCT Section 11. The requirement for a bond at subsection (c) is derived from UMVCT Section 11(b). The bracketed language in subsection (c) is intended to provide standards for the conditions on registration that can be imposed pursuant to that subsection: Making clear that conditions can be imposed only to effectuate state law, but for that purpose as the office deems appropriate; and any requirement for a bond is at the discretion of the office. The final bracketed language is an alternative, streamlined but not as elaborate in terms of the balance between standards and discretion.

Choice of law concerns with respect to registration under old Article 9 Section 9-103(2)(b) were resolved in revised Article 9 Section 9-303 and do not exist under Section 4. Therefore there are no choice of law implications relating to certificates of title as a result of registration under this section.

SECTION 14. VOLUNTARY TRANSFER OF OWNERSHIP.

(a) A purchaser of a vehicle [located in this state and] covered by a certificate of title created in any jurisdiction may require the transferor to execute the certificate of title to the purchaser pursuant to this [act]. [A person authorized to execute the certificate of title shall, as promptly as practicable and in compliance with this [act] and law other than this [act], execute

1 the certificate of title to the purchaser.]

2 (b) Execution of the certificate of title to the purchaser by the transferor [or a person
3 authorized by the transferor to execute the certificate of title] transfers the transferor's ownership
4 of the vehicle to the purchaser.

5 (c) Except as otherwise provided in this [act], as between the parties to the transfer and
6 their assignees and successors, a transfer of ownership is not rendered ineffective by a failure to
7 execute the certificate of title as provided in subsection (a), but a transfer without execution of
8 the certificate of title is not effective as to other persons claiming an interest in the vehicle, until
9 the requirements of subsection (a) are satisfied.

10 **Preliminary Comments**

11 Subsections (a) and (b) are intended to provide a simple baseline rule for transfers of
12 ownership to vehicles covered by a certificate of title. Subsection (b) makes clear that ownership
13 is transferred immediately upon execution of the certificate of title, even though an application
14 for a new certificate of title has not been made. Subsection (c) clarifies that ownership of a
15 vehicle covered by a certificate of title also may be transferred without the certificate of title,
16 though such transfers may not be effective as to third parties. However, this is subject to the
17 rights of a good faith purchaser for value or a buyer in ordinary course of business. *See also*
18 Sections 16-21. For example, rights under Section 14(c) are subject to claims asserted under
19 Sections 16 and 17.

20
21 This [act] is supplemented by otherwise applicable law, for example the law of agency.
22 Therefore the obligations and rights recognized in this section can be exercised by authorized
23 representatives of the transferor and purchaser.
24

25 Section 14(a) provides the purchaser a right to execution of the certificate of title upon
26 purchase of a vehicle. Subsection (b) provides that execution of the certificate of title constitutes
27 a transfer of ownership. After execution of the certificate of title the transferor is no longer the
28 vehicle owner, *e.g.*, for purposes of financial responsibility laws. Subsection (c) recognizes that
29 ownership can also be transferred by other means, *e.g.*, by contract or bill of sale; such transfers
30 are not invalidated by this [act] or the failure to execute a certificate of title, though such
31 transfers may be ineffective against other persons claiming an interest in the vehicle (*e.g.*, a lien
32 creditor of the transferor).
33

1 *See also* the rights of transferees under Section 17, which specifies that a transferee that does
2 not obtain execution of the certificate of title takes subject to interests indicated on the certificate,
3 except in certain cases where the transferee is a buyer in ordinary course of business. Thus
4 Section 14(c) is subject to Section 17.
5

6 **SECTION 15. NOTICE TO OFFICE WITHOUT APPLICATION.**

7 (a) A transferor or transferee may notify the office of the transfer by submitting a record
8 of the executed certificate of title or other signed record evidencing the transfer in accordance
9 with standards and procedures established by the office. [The record must include the
10 information required by Section 8.] Upon receipt of the record, the office shall amend its files to
11 reflect the transfer and index the record. This record is not effective as to other persons claiming
12 an interest in the vehicle until the requirements of Section 14(a) are satisfied.

13 (b) A notice, record, or file created pursuant to this section is not a certificate of title or
14 an application for a certificate of title.

15 **Preliminary Comments**

16 Subsection (a) provides a basic legal framework for providing notice of ownership transfers
17 to the appropriate state office, without application for a certificate of title under Section 8. This
18 is intended to supplement Sections 8 and 9, and (as relevant) Sections 20, 21, 24, and 25,
19 incorporated by reference. *See also* Sections 22-23. The purpose is to allow a transferor or
20 transferee to provide notice to the office without meeting the requirements for an application
21 under Section 8.
22

23 Subsection (b) makes clear that this notice procedure is not a substitute for an application for
24 a certificate of title pursuant to Section 8. To obtain a certificate of title pursuant to Section 9
25 reflecting a transfer, the transferee of the vehicle must submit to the office the executed
26 certificate of title or other signed record evidencing the transfer, and the information required by
27 Section 8, or any other documentation required by the office in accordance with Section 20, 21,
28 24, or 25 as applicable, including submission of any required fee and tax. Subsection (a) merely
29 provides a mechanism for providing notice to the office for informational purposes, for whatever
30 purposes the office may desire; subsection (a) does not impose any resulting legal consequences.
31 The legal effects of this notice are left to law other than this [act]. The office that receives this
32 information should provide a procedure to identify, expunge, or segregate contested information

1 in appropriate circumstances.
2

3 **SECTION 16. SECURITY INTERESTS NOT NOTED ON CERTIFICATE OF**
4 **TITLE; VOIDABLE TITLE**

5 (a) If, while a security interest in a vehicle is perfected [or a lien is obtained] by any
6 method under the law of any jurisdiction, the office creates a written certificate of title that does
7 not indicate that the vehicle is subject to the security interest [or lien] or contain a statement that
8 it may be subject to security interests [or liens] not shown on the certificate, a buyer of the
9 vehicle, other than a person in the business of selling or leasing vehicles of that kind, takes free
10 of the security interest [or lien] if the buyer:

11 (1) gives value and receives possession of the vehicle and obtains execution of the
12 written certificate of title in good faith; and

13 (2) does not have notice of the security interest [or lien] in the vehicle.

14 (b) A purchaser of a vehicle acquires all interests that the transferor had or had power to
15 transfer, except that a purchaser of a limited interest acquires rights only to the extent of the
16 interest purchased. A person having voidable title to a vehicle has power to transfer a good title
17 to a good faith purchaser for value. When ownership of a vehicle has been transferred in a
18 transaction of purchase the purchaser has the power to transfer good title even though:

19 (1) the transferor was deceived as to the identity of the purchaser;

20 (2) the transfer was in return for a check that was later dishonored;

21 (3) it was agreed that the transaction was to be “cash sale;”

22 (4) the transfer was procured through fraud punishable as larcenous under the

1 criminal law; or

2 (5) there is no execution of a certificate of title.

3 **Preliminary Comments**

4 Subsection (a) is patterned on UCC Article 9 Section 9-337, but with important differences:
5 Subsection (a) applies to intrastate sales, while Section 9-337 applies only to interstate scenarios;
6 unlike Section 9-337, subsection (a) allows a purchaser to take free of a security interest properly
7 perfected in the same state (though only if it is not indicated on the certificate of title executed to
8 the purchaser). However, subsection (a) also imposes requirements on the purchaser not found in
9 Section 9-337: Execution of the certificate of title; good faith; reasonable commercial standards
10 of fair dealing; and a lack of notice (compared to only the lack of knowledge required by Section
11 9-337). These requirements assure that only the most innocent and prudent purchaser will
12 qualify for the exceptional protection provided by this section. Moreover, a purchaser who
13 prevails under subsection (a) will be subject to a comparative negligence standard under
14 subsection (b), if the purchaser failed to exercise ordinary care.

15
16 Subsection (c) also allows the purchaser to take free of adverse ownership claims and lien
17 creditors whose interests are not indicated on the certificate of title executed to the purchaser.
18 Subsection (c) is designed to be consistent with UCC Section 2-403, to protect good faith
19 purchasers for value, so as to conform certificate of title issues to the equivalent rules in UCC
20 Article 2. *See also* Sections 17 and 27; Article 2A Sections 2A-314 and 2A-315. “Notice” for
21 purposes of this section is defined at UCC Section 1-202 (2002 uniform text), as actual
22 knowledge or “reason to know;” “value” is defined at UCC Section 1-204. Failure of a purchaser
23 to obtain execution of a certificate of title does not bar good faith purchaser status.

24
25 Together Sections 14-18 comprise a package that accommodates electronic and informal
26 transfers while recognizing the primacy of a written certificate of title and protecting buyers in
27 the ordinary course of business. Execution of an electronic certificate of title under Section 14(a)
28 and (b) would have priority over an informal transfer under Section 14(c), while execution of a
29 written certificate of title under Section 16(a) would have priority over both.

30
31 Section 16(a) allows a purchaser (other than a dealer) to rely on a certificate of title in a
32 commercially reasonable purchase of a vehicle for value and without notice of an adverse claim
33 not indicated on the certificate of title. Other evidence of reliance is not required: Section 16(a)
34 requires only that the “purchaser” (as defined in Section 3(a)(22)) take delivery of the vehicle for
35 “value” and without “notice” of the adverse claim after a valid certificate of title has been created
36 without an indication of the adverse claim. This resolves, in favor of such a purchaser, conflicts
37 between this purchaser and a former owner, secured party, or other claimant whose interest may
38 be superior to the purchaser’s transferor. As noted, Section 16(a) is similar to Article 9
39 Section 9-337, except that Section 16(a) applies to intrastate transfers and imposes additional
40 burdens on the purchaser.

1 **SECTION 17. RIGHTS OF TRANSFEREE OF VEHICLE COVERED BY**
2 **CERTIFICATE OF TITLE.**

3 (a) Except as otherwise provided in this section or in Section [14,] 16, [18, 26, or 27,] a
4 transferee of a vehicle takes subject to a valid interest in the vehicle indicated on the certificate of
5 title and, if the certificate of title contains a statement that the vehicle is or may be subject to
6 security interests not shown on the certificate of title, a valid security interest not so indicated.

7 (b) A buyer in ordinary course of business or a lessee in ordinary course of business of a
8 vehicle takes free of a security interest created by the buyer's seller or the lessee's lessor,
9 including a security interest indicated on the certificate of title, even if the security interest is
10 perfected, the buyer or lessee knows of its existence, and the certificate of title was not executed
11 to the buyer or lessee.

12 (c) Entrusting of a vehicle to a merchant that deals in vehicles gives the merchant the
13 power to transfer all rights of the entruster to a buyer in ordinary course of business or, to the
14 extent of the lessee's interest, to a lessee in ordinary course of business, even if the entruster does
15 not execute the certificate of title to the buyer or lessee.

16 (d) In this section, "entrusting" includes any relinquishment of possession and any
17 acquiescence in retention of possession of the vehicle regardless of any condition expressed
18 between the parties to the relinquishment or acquiescence and regardless of whether the
19 procurement of the entrusting or the possessor's disposition of the vehicle have been such as to
20 be larcenous under the criminal law.

Preliminary Comments

Subsection (a) states the basic common law rule of assignment, which also runs throughout the UCC: Subject to specified exceptions, the transferee takes the rights of the transferor. *See also* Sections 14 and 16. Subsection (a) also reflects the Article 9 principle that rights under the certificate of title are paramount. *See, e.g.,* Article 9 Sections 9-311, 9-335, 9-337, 9-338. This represents the base line rule, with subsection (b) an exception. *See also* Sections 16-18 and 26-27; UCC Article 2A Section 2A-304 and Official Comment.

Subsection (b) recognizes an exception for a buyer in ordinary course of business (BIOCB), based on Article 9 Section 9-320. *Cf.* Section 16(c). Section 9-320 cuts off security interests created by the seller. Subsection (b) recognizes and incorporates this UCC provision in the context of a certificate of title transaction, and specifies that a buyer of a vehicle can be a BIOCB even if that person does not obtain a certificate of title. *See also* UCC Sections 2A-304, 2A-305.

The result is to allow the BIOCB of a vehicle covered by a certificate of title to take free of claims and security interests created by the seller (*e.g.,* an inventory security interest created by an auto dealer) even if the secured party holds the certificate of title; but, like Section 9-320, subsection (b) does not allow the BIOCB to take free of a security interest created by a consignor and perfected by certificate of title lien entry, because that is not a security interest created by the seller, unless the consignor and dealer/consignee are the same or are so closely connected as to be treated as the same entity. This reflects long-standing UCC policy that even a BIOCB only takes free of security interests created by his or her seller, not interests of other or prior parties. *But see* subsection (c) and Section 16(c) for possible buyer remedies in this situation.

Section 17 is consistent with the UCC and the case law. It also resolves a related issue: Can a buyer of a vehicle from a dealer be a BIOCB without execution of the certificate of title? The UCC definition of BIOCB is not specific on this, but is broad enough to accommodate this as a common dealer practice. The cases are split. However, this is a common dealer practice, and subsections (b) and (c) protect a consumer buying from a dealer despite the lack of a certificate of title. Rights as between the dealer and its secured party, such as the priorities of claims to the sales proceeds, are left to other law. *See, e.g.,* UCC Article 9 Sections 9-102(a)(64), 9-315, 9-322.

SECTION 18. EFFECT OF INCORRECT INFORMATION OR OMISSIONS.

(a) Except as otherwise provided in this section, a certificate of title, application for a certificate of title, certificate of origin, security interest entry form, or other record otherwise satisfying the requirements of this [act] is effective, even if it contains incorrect information or

1 required information is omitted.

2 (b) In addition to the rights provided under Section 16(a) and (b), if a certificate of title,
3 application for a certificate of title, certificate of origin, security interest entry form, or other
4 record is seriously misleading because it contains incorrect information or omits required
5 information, a purchaser of the vehicle covered by the record takes free of any claim or interest
6 the validity of which is dependent on the incorrect information or omitted information, to the
7 extent that the purchaser gives value in reasonable reliance on the incorrect information or the
8 absence of the omitted information.

9 (c) Except as otherwise provided in subsection (d), a description of the vehicle covered
10 by a certificate of title, application for a certificate of title, certificate of origin, security interest
11 entry form, or other record otherwise satisfying the requirements of this [act] is sufficient,
12 whether or not the description and vehicle identification number are specific and accurate, if the
13 information, including the vehicle identification number, reasonably identifies the vehicle.

14 (d) With respect to a security interest or other interest indicated in the files of the office
15 and not indicated on a written certificate of title, if a search of the files of the office using correct
16 required information, and using the office's standard search logic, if any, discovers the file that
17 discloses the security interest or other interest, a failure to provide the information specifically or
18 accurately is not seriously misleading.

Preliminary Comments

Often a certificate of title, application for a certificate of title, certificate of origin, security interest entry form, or other record that fails to state accurately the name and address of the owner, the name and address of the secured party, or the description of the vehicle, is not seriously misleading solely for that reason, because the certificate of title is provided to the purchase or secured party by the owner, the correct or sufficient information is easily ascertainable, and the error causes no injury. Section 18 makes clear that a certificate of title containing erroneous information, or omitting information, is not rendered invalid by the erroneous information or omission, and is valid and effective, except to the extent that a purchaser is misled by the erroneous information or omission. This section is modeled on Article 9 Sections 9-108, 9-337, 9-338, 9-502, and 9-506. The purpose is to prevent harmless errors from invalidating a transaction, *e.g.*, recognizing that errors in the parties' names or an error in the description of the vehicle often will not mislead parties to a certificate of title transaction. This issue is different than under Article 9, where an error in the debtor's name can mislead filing searches. Thus, no equivalent to Article 9 Section 9-506(c) is needed if the security interest is noted on a written certificate of title. For other cases, subsection (d) provides a rule equivalent to Section 9-506(c).

Subsection (b) provides a sanction, short of invalidation, where a seriously misleading error causes damage to a reliance party. *See* subsection (d) for a procedure to determine if an error involving a security interest is seriously misleading. It is not misleading for a secured party or lessor to be indicated as the owner on the certificate of title. *See* Section 27(b).

Subsection (c) provides general rules governing errors or omissions in records pertaining to certificates of title, modeled on Article 9 Section 9-506(a) and (b). Except as provided at subsection (d), an error in the name of the owner or secured party, or the description of the vehicle, is unlikely to prejudice third parties in a certificate of title transaction.

An error in the vehicle identification number (VIN) will not be seriously misleading in many cases, *e.g.*, where a security interest entry form is submitted to the office along with a written certificate of title covering the vehicle. The correct VIN will be apparent on the certificate of title and a minor VIN error on the security interest entry form should not prevent the security interest from being noted on the certificate of title or in the files of the office. Similarly, an error in typing the VIN on a written certificate of title will normally be minor and harmless, and will not impair the effectiveness of the certificate of title or its execution. The same is true for errors in the names of the parties to a transaction. These are examples of harmless errors under subsections (a), (b), and (c).

The exception is described at subsection (d). The exception at subsection (d) is necessary where the search depends on the files of the office, because in this context an error in the name of the owner or VIN could result in a record being mis-filed or not discovered in a proper search of the files of the office, depending on the search logic and indexing system being used.

1 **SECTION 19. DELIVERY OF CERTIFICATE OF TITLE.**

2 (a) Upon creation of a certificate of title, the office shall promptly deliver any written
3 certificate of title, or a record evidencing an electronic certificate of title, to the secured party of
4 record, if any, at the address shown on the security interest entry form submitted by the secured
5 party of record, and, unless that information has been previously provided to the owner, shall
6 deliver a record evidencing the certificate of title to the owner of record at the address of the
7 owner indicated in the files of the office. If there is no secured party of record, the certificate of
8 title or record evidencing the electronic certificate of title must be delivered to the owner of
9 record. The secured party of record, if any, may elect to have the office create a written
10 certificate of title pursuant to subsection (b). The owner of record also may make such an
11 election, but only if all security interests indicated in the files of the office have been terminated.

12 (b) Within [15] business days after receipt of a request for a written certificate of title
13 pursuant to subsection (a), the office shall create and deliver the requested written certificate of
14 title to the secured party of record, or, if no security interest is indicated in the files of the office,
15 shall create and deliver the requested written certificate of title to the owner of record.

16 (c) If a written certificate of title is created, any existing electronic certificate of title
17 covering the vehicle is cancelled and replaced by the written certificate of title, and the
18 cancellation must be noted in the files of the office with an indication of the time and date of the
19 cancellation.

20 **Preliminary Comments**

21 Derived from UMVCT Section 10. Note that Section 8 (Application for a Certificate of
22 Title) provides for optional use of an e-mail address.
23

1 The determination by the office of the first secured party indicated on the certificate of title,
2 as required under this section, is an administrative determination for purposes of this section and
3 is not dispositive of priority issues governed by UCC Article 9.
4

5 This section does not require creation of a written certificate of title, except at the request of
6 the first secured party or, in some circumstances, the owner; if a written certificate of title is
7 created it must be delivered to the first secured party, if any. This is designed to make the state a
8 certificate of title “title holding” state when the option to have a written certificate of title is
9 exercised. However, while “title holding” may be useful for anti-fraud purposes, it also may
10 create delays for subsequent purchasers or creditors who need the certificate of title to perfect a
11 new security interest or otherwise execute a subsequent transaction. Under the U.S. Supreme
12 Court’s rationale in the *Fink* case, such delays may be legally fatal. *See* Section 28. Therefore
13 this section allows the owner to request issuance of a written certificate of title to facilitate
14 subsequent transactions, though the bracketed language would significantly limit this. This
15 section also should be paired with a means to allow subsequent parties to search for and file
16 security interest entry forms without otherwise having access to the certificate of title. *See*
17 Sections 4, and 26-27.
18

19 **SECTION 20. TRANSFER OF OWNERSHIP BY SECURED PARTY TRANSFER**
20 **STATEMENT.**

21 (a) In this section, “secured party transfer statement” means a record signed by the
22 secured party of record stating:

23 (1) that the owner of record has defaulted on an obligation to the secured party of
24 record;

25 (2) that the secured party of record is exercising or has exercised post-default
26 remedies with respect to the vehicle;

27 (3) that, by reason of the exercise, the secured party of record or other purchaser has
28 acquired the rights of the owner of record;

29 (4) the name and last known mailing address of:

30 (A) the owner of record;

1 (B) the secured party of record; and

2 (C) any other purchaser;

3 (5) any other information required by Section 8(a); and

4 (6) that the certificate of title is an electronic certificate of title, or that the secured
5 party does not have possession of the written certificate of title created in the name of the owner
6 of record, or that the secured party is delivering the written certificate of title to the office with
7 the secured party transfer statement.

8 (b) Compliance by the secured party of record with the facts [requirements] stated in
9 subsection (a), and payment of any applicable fees and taxes, entitles the secured party to the
10 creation of a certificate of title showing the secured party of record or other purchaser as the
11 owner of record. If a secured party transfer statement is delivered to the office in accordance
12 with subsection (a) with any applicable fee and taxes, unless the secured party transfer statement
13 is rejected by the office for a reason set forth in Section 9, the office shall:

14 (1) accept the secured party transfer statement;

15 (2) promptly send notice to the owner of record, and to all persons indicated in the
16 files of the office as having a security interest, that a secured party transfer statement has been
17 received by the office;

18 (3) amend its records to reflect the transfer;

19 (4) cancel the certificate of title created in the name of the owner of record listed in
20 the secured party transfer statement, whether or not the certificate of title has been delivered to
21 the office;

22 (5) create a new certificate of title indicating the secured party of record or other

1 purchaser as the vehicle's owner of record; and

2 (6) deliver the new certificate of title pursuant to Section 19.

3 (c) The creation of a certificate of title under subsection (b) does not of itself relieve the
4 secured party of its duties under [Uniform Commercial Code Article 9].

5 **Preliminary Comments**

6 This section is based on UCC Article 9 Section 9-619 and largely follows the language of
7 that section, for purposes of consistency with the UCC. Like Article 9, this section makes clear
8 that creation of a certificate of title and transfer of ownership under this section do not constitute
9 or serve as a substitute for a disposition of collateral under Article 9. Thus the requirements for a
10 disposition of collateral under Article 9 Part 6 are not affected by this section. The purpose of
11 this section is to facilitate a disposition of collateral by permitting creation of a certificate of title,
12 to be executed to the buyer at the disposition sale. This section adapts the provisions of UCC
13 Section 9-619 to the specifics of certificate of title transactions, to help unify the rules of Article
14 9 and this [act].

15
16 This section is not mandatory. It does not require the secured party to obtain a certificate of
17 title upon repossession or disposition. The obligation to deliver a certificate of title to a
18 purchaser is provided by Section 14, supplemented by the remedial provisions of Section 24.
19

20 **SECTION 21. TRANSFER OF OWNERSHIP BY OPERATION OF LAW.**

21 (a) Except as provided in subsection (c), in this section:

22 (1) "By operation of law" means a law or judicial order affecting ownership of a
23 vehicle on account of death, divorce, merger, consolidation, dissolution, or bankruptcy, or
24 through the exercise of the rights of a lien creditor or a person with a common law or statutory
25 lien or other nonconsensual lien, or through other legal process.

26 (2) "Transfer-by-law statement" means a record signed by a transferee:

27 (A) stating that, by operation of law, the transferee has acquired or has the right to
28 acquire the interest of the owner of record;

1 (B) stating the name and mailing address of the owner of record and the
2 transferee and any other information required by Section 8(a);

3 (C) including documentation sufficient to establish the transferee's interest or
4 right to acquire the interest of the owner of record; and

5 (D) stating that the certificate of title is an electronic certificate of title, or that the
6 transferee does not have possession of the written certificate of title created in the name of the
7 owner of record, or that the transferee is delivering the written certificate of title to the office
8 with the transfer-by-law statement.

9 (b) Compliance by the transferee with the facts [requirements] stated in subsection (a),
10 and payment of any applicable fees and taxes, entitles the transferee to creation of a certificate of
11 title showing the transferee as the owner of record. If a transfer-by-law statement is delivered to
12 the office in accordance with subsection (a) with any applicable fee and taxes, and
13 documentation satisfactory to the office as to the transferee's ownership interest or right to
14 acquire the interest of the owner of record, unless the transfer-by-law statement is rejected by the
15 office for a reason set forth in Section 9, the office shall:

16 (1) accept the transfer-by-law statement;

17 (2) promptly send notice to the owner of record, and to all persons indicated in the
18 files of the office as having a security interest in the vehicle, that a transfer-by-law statement has
19 been received by the office;

20 (3) amend its records to reflect the transfer;

21 (4) cancel the certificate of title created in the name of the owner of record listed in
22 the transfer-by-law statement, whether or not the certificate of title has been delivered to the

1 office;

2 (5) create a new certificate of title indicating the transferee as owner of record; and

3 (6) deliver the new certificate of title pursuant to Section 19.

4 (c) This section does not apply to the exercise of post-default remedies by a secured party
5 having a security interest in a vehicle, or relieve any party of the obligation to comply with law
6 other than this [act].

7 **Preliminary Comments**

8 This section, like Section 20, is patterned on UCC Article 9 Section 9-619, though this
9 section has a different purpose and therefore diverges more from the Section 9-619 language.
10 The purpose of this section is to provide a procedure to accommodate transfers of ownership due
11 to death, divorce, corporate mergers, bankruptcy, enforcement of liens, and the like. As with
12 Section 20, this section makes clear that it is not a substitute for a UCC Article 9 disposition of
13 collateral. The post-default remedies of a secured party are governed by Section 20 and
14 [Uniform Commercial Code Article 9].
15

16 **SECTION 22. CERTIFICATE OF TITLE MUST REFLECT FILES.**

17 The office shall ensure that any certificate of title created pursuant to an application for a
18 certificate of title reflects the information required under Section 10, as contained in the files of
19 the office. If an examination of the files indicates a security interest, the name and status of the
20 secured party of record must be indicated on the certificate of title. If there are additional secured
21 parties, that must be indicated on the certificate of title.

22 **Preliminary Comments**

23 This is derived from UMVCT Section 7. *See also* UCOTA Sections 10(a), 23. The
24 application for a certificate of title is governed by Sections 8 and 9. A certificate of title must be
25 delivered pursuant to Section 19. Under this section, a certificate of title created under this act
26 qualifies as a certificate of title under UCC Article 9, Section 9-102(a)(10).
27

1 **SECTION 23. MAINTENANCE OF FILES.**

2 (a) For each record filed in the office, the office shall:

3 (1) ascertain the vehicle identification number applicable to the record;

4 (2) create or maintain a file that bears the vehicle identification number assigned to
5 the filed record and contains the information in the filed record, including the date
6 and time the filed record was delivered to the office;

7 (3) maintain the filed record for public inspection, subject to subsection (d); and

8 (4) index each filed record so as to be accessible by the vehicle identification number
9 for the vehicle and any other indexing methods as provided by the office.

10 (b) The office shall maintain files of the information contained in all certificates of title
11 created under this [act]. The information must be accessible by the vehicle identification number
12 for the vehicle and any other indexing methods as provided by the office.

13 (c) Each file maintained under this section must include all security interests, title brands,
14 and stolen-property reports applicable to the vehicle, and the name and address of any known
15 secured parties or claimants to ownership.

16 (d) [The information required in this section, except as provided by law other than this
17 [act], is a public record accessible pursuant to this [act]]. [Cite to public records law.]

18 *Legislative Note:*

19 *A state with separate public records laws governing disclosure of personal information*
20 *should cross-reference those laws at subsection (c). A state without such a law to govern*
21 *these files should enact the optional language at subsection (c) to distinguish between private*
22 *and public information.*
23

1 **Preliminary Comments**

2 [Cross-reference other laws.]
3

4 Derived from UMVCT Section 8 and UCC Article 9 Section 9-519. Companion to UCOTA
5 Section 22. This also is a counterpart to Article 9 Section 9-519(a).
6

7 The office is required to accept each application for a certificate of title that is submitted in
8 accordance with Sections 8 and 9 and, if the files of that office indicate that all security interests
9 have been terminated, to create a written or electronic certificate of title, at the option of the
10 owner or secured party, in accordance with this [act]. See Sections 8-10, 15 and 19.
11

12 This section requires the office to maintain files of the information required for the purposes
13 of this [act]. Inherent in this obligation is the authority to maintain the files directly, or to
14 provide for such maintenance by a qualified third party. Section 22 requires that any certificate
15 of title created by the office must reflect the files of the office as to the information required
16 pursuant to this [act].
17

18 **SECTION 24. APPLICATION FOR TRANSFER OF OWNERSHIP OR**
19 **TERMINATION OF SECURITY INTEREST ENTRY FORM WITHOUT**
20 **CERTIFICATE OF TITLE OR CERTIFICATE OF ORIGIN.**

21 (a) The office shall create a certificate of title upon receiving an application under
22 Section 8 that is not accompanied by submission of an executed certificate of title or certificate
23 of origin, only if:

- 24 (1) all other requirements of an application under Sections 8 and 9 are met;
25 (2) the applicant has provided an affidavit stating facts that indicate the applicant is
26 entitled to a transfer of ownership or termination of a security interest entry form;
27 (3) at least 45 days before the office creates the certificate of title, notice of the
28 application has been sent to all persons having an interest in the vehicle as indicated in the files
29 of the office, and no objection has been received by the office; and

1 (4) the applicant presents other documentation required by the office to evidence the
2 applicant's ownership, or termination of the security interest entry form, and there is no credible
3 information available to the office indicating theft, fraud, or any undisclosed or unsatisfied
4 security interest, lien, or other claim to an interest in the vehicle.

5 (b) The office may require an applicant under subsection (a) to post a bond or provide an
6 equivalent source of indemnity or security, in a form prescribed by the office, providing for
7 indemnity of any owner, purchaser, secured party, or other claimant, for any expense, loss, delay,
8 or damage, including reasonable attorney's fees but not consequential damages, resulting from
9 creation of a certificate of title or termination of a security interest entry form under subsection
10 (a). The bond or other source of indemnity may not exceed twice the value of the vehicle as
11 determined by the office.

12 (c) The office shall release a bond, indemnity, or other security required under subsection
13 (b) if the office has not received a claim within one year after creation of the certificate of title
14 under subsection (a).

15 (d) In lieu of the requirements of subsection (b), the office may include in the certificate
16 of title created under subsection (a) a notation [legend] [indication] indicating that the certificate
17 of title was created without submission of an executed certificate of title or termination
18 statement. If no credible information indicating theft, fraud, or any undisclosed or unsatisfied
19 security interest, lien, or other claim to an interest in the vehicle has been received by the office
20 within one year after creation of the certificate of title, upon a request in a form and manner
21 specified by the office, the office shall remove the notation [legend] [indication] from the
22 certificate of title.

1 **Preliminary Comments**

2 Derived from UMVCT Section 11. *See also* Section 16, and Sections 20, 21, and 25.
3 Section 24 may be used, *e.g.*, to request a certificate of title to effectuate a sale, gift, auction or
4 judicial sale, UCC Article 9 disposition sale, or other transfer where the seller, donor, or other
5 transferor is unable or unwilling to obtain or execute the certificate of title. Section 24 can also
6 be used in lieu of a termination statement under Section 28, *e.g.*, if a secured debt has been
7 satisfied and the secured party is unable or unwilling to provide a termination statement. Section
8 24 requires a supporting affidavit, 45 days prior notice to all known interested parties, and (at the
9 option of the office): other documentation (*e.g.*, a bill of sale or sales contract and cancelled
10 check or other evidence of payment); a bond; and/or a legend on the certificate of title, as
11 additional potential safeguards to supplement the procedures at Sections 8 and 9.
12

13 This section is not for use by an owner of record seeking to replace a lost, stolen, or destroyed
14 certificate of title; that procedure is governed by Section 25. Section 25 is designed to allow a
15 replacement title to be obtained by the same owner; it does not directly involve a transfer of
16 ownership. In contrast, Section 24 provides for a transfer of title where the applicant presents
17 evidence that he or she is entitled to such a transfer, satisfactory to the office, and the transferor is
18 unable or unwilling to deliver the certificate of title as otherwise required. The requirements and
19 remedy provided by this section are in addition to those set forth elsewhere in this [act], *e.g.*, at
20 Sections 14, 20, 21, and 25.
21
22

23 **SECTION 25. REPLACEMENT CERTIFICATES OF TITLE.**

24 (a) If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise
25 becomes unavailable or illegible, the secured party of record or, if there is no secured party
26 indicated in the files of the office, the owner of record, may make application for and obtain a
27 replacement certificate of title in the name of the owner of record by furnishing information
28 satisfactory to the office in accordance with this section.

29 (b) An application for a replacement certificate of title must be submitted in a record
30 signed by the applicant, and, except as otherwise permitted by the office, must comply with
31 Section 8.

32 (c) If the existing written certificate of title has been mutilated or is illegible, the existing

1 certificate of title must be submitted to the office with the application for a replacement
2 certificate of title. If the certificate of title has been lost, stolen, destroyed, or is otherwise
3 unavailable, the applicant is not required to include the certificate of title.

4 (d) Each replacement certificate of title created by the office must comply with Section
5 10 and conspicuously state that it is a replacement certificate of title.

6 (e) If a person receiving a replacement certificate of title subsequently obtains possession
7 of the original certificate of title, the person shall promptly destroy the original certificate of title.

8 **Preliminary Comments**

9
10 Derived from UMVCT Section 13. A purchaser to whom a replacement certificate of title is
11 executed can qualify as a good faith purchaser (GFP) or BIOCB, *e.g.*, under Section 14, 16 or 17,
12 UCC Article 2 Section 2-403, and Article 9 Sections 9-320, 9-337, and 9-338, if all other
13 requirements are met. The legend required by subsection (c) does not give notice sufficient to
14 bar GFP or BIOCB status.

15 16 17 **SECTION 26. RECEIPT OF SECURITY INTEREST ENTRY FORM.**

18 (a) Except as otherwise provided in this section, a security interest entry form is effective
19 upon receipt by the office of a record sufficient under this section and tender of the applicable
20 fee. A security interest entry form effective under this section is an application for a certificate of
21 title for purposes of Section 4 and [Uniform Commercial Code Article 9].

22 (b) A security interest entry form is sufficient if it is a record that includes the name of a
23 debtor, the name of a secured party or a representative of a secured party, and a description of the
24 vehicle, and one of the following conditions is met:

25 (1) the debtor has signed a security agreement that provides a description of the
26 vehicle; or

(2) the vehicle is in the possession of the secured party under [Uniform Commercial Code Section 9-313] pursuant to the debtor's agreement.

(c) A security interest entry form is not received if the office rejects the form, under subsection (e), because:

(1) the record is not delivered by a means authorized by the office;

(2) an amount equal to or greater than the required filing fee is not tendered;

(3) the record omits the name and mailing address of a debtor and a secured party; or

(4) the record does not contain the correct vehicle identification number.

(d) The office shall maintain a public record showing the date [and time] of receipt of each security interest entry form that is effective and make the record available on request.

(e) If the office rejects a security interest entry form, the office shall notify the person that delivered the form of the rejection, the reasons for the rejection, and the date [and time] the form would have been received had the office not rejected it. The office shall send the notice not later than midnight of the second business day after the business day on which the office received delivery of the form. If the office does not send proper notice of rejection of a security interest entry form by midnight of the second business day after the business day on which the form was delivered to the office, the security interest entry form is received and effective as of the business day on which the form was delivered to the office.

Preliminary Comments

This section is modeled on UCC Section 9-516. It addresses many of the same issues as Section 9-516, *e.g.*, by specifying that a security interest entry form is effective on receipt by the appropriate office and payment of the required fee, unless it is properly rejected for specified reasons and within a specified time. Thus, perfection of the security interest occurs upon receipt the security interest entry form, even if the security interest is never indicated in the files of the

1 office or on a written certificate of title, assuming there has been attachment under UCC
2 Article 9.

3
4 Errors and omissions in the security interest entry form or certificate of title are governed by
5 Section 18. The analysis may be different than under Article 9. For example, under this [act] an
6 error in the secured party's or debtor's name or the description of the vehicle often will be a
7 harmless error, because it will not affect a search of the files under the vehicle identification
8 number (VIN) or a transferee of a written certificate of title. Even an error in the VIN may be
9 harmless under Section 18. Therefore subsection (b) does not require precision with respect to
10 the debtor's or the secured party's name, or the description of the collateral, for receipt of the
11 security interest entry form to be effective. The effect of any errors will be determined under
12 Section 18. In contrast, an error in the VIN is grounds for rejection under subsection (c), but
13 does not require rejection, *e.g.*, if the office is able to reconcile the error. Even if the office
14 rejects the form due to an erroneous VIN under subsection (c), the form may be effective for
15 some purposes if the rejection is not timely under subsection (e). In that case the effect of the
16 erroneous VIN will be determined under Section 18. Thus Section 26 determines the
17 effectiveness of a security interest for purposes of perfection, while Section 18 determines the
18 effect of any erroneous information in that form.

19
20 Rules governing an application for a certificate of title are at Sections 8 and 9. Adverse
21 claims are covered by Section 16. The secured party may qualify as a "purchaser" as that term is
22 defined in Section 2, *e.g.*, for purposes of the Section 16 provisions governing adverse claims.

23
24 Consistent Article 9 Section 9-311(a), this [act] displaces Article 9 only with respect to the
25 Article 9 provisions requiring the filing of a financing statement to perfect a security interest, and
26 the rules governing the effectiveness of a security interest entry form. Other Article 9 rules, such
27 as those governing attachment (Section 9-203), priority (Article 9 Part 3), and enforcement
28 (Article 9 Part 6) continue to apply. Moreover, under Article 9 Section 9-311(b), unless
29 displaced by the specific provisions of this [act], to the extent applicable, the filing provisions of
30 Article 9 Part 5 may continue to be relevant or to supplement the provisions of this [act]. For
31 example, *see* Article 9 Sections 9-311(d), 9-313(b), and 9-508. However, this [act] displaces
32 much of Article 9 Part 5 (Filing Office; Contents and Effectiveness of Financing Statement).

33
34 Subsection (e) provides a procedure to require the office to notify a secured party if a security
35 interest entry form is rejected. The time limit for this notice reflects a balancing of the need for
36 secured parties to receive prompt notice of the need to take remedial action, with the need of the
37 office for sufficient time to process incoming forms. If timely and proper notice is not sent under
38 this subsection, the security interest entry form is effective according to its terms even though it
39 may not have met the requirements of this [act] and was not recorded or indexed in the files of
40 the office. In this circumstance, if the other requirements of Article 9 are met, the security
41 interest will be perfected by the security interest entry form. Of course, if the security interest
42 entry form is significantly defective on its face, *e.g.*, no debtor's name or a completely erroneous
43 description of collateral, the error will render it ineffective despite this provision. *See* Section 18.

1 Priorities between the secured party and those who may be prejudiced by the failure of the office
2 to file and index the lien entry form, or to indicate it on the certificate of title, are covered by
3 other sections, *e.g.*, Sections 16-18.
4

5
6 **SECTION 27. PERFECTION OF SECURITY INTERESTS.**

7 (a) Except as otherwise provided in this [act], if a security interest entry form is effective
8 under Section 26, the security interest represented by the security interest entry form is perfected,
9 upon the later to occur of receipt of the security interest entry form or attachment of the security
10 interest pursuant to [Uniform Commercial Code Section 9-203]. Except as otherwise provided in
11 subsections (e) and (f), a security interest in a vehicle may be perfected only by [receipt of] a
12 security interest entry form [that is effective] under Section 26.

13 (b) The office may create a certificate of title naming as owner a lessor, consignor or
14 other bailor, or secured party. If the interest of a person named as owner is a security interest, the
15 certificate of title naming such a person as owner perfects the security interest of the lessor,
16 consignor or other bailor, or secured party, but is not of itself a factor in determining whether the
17 interest is a security interest. [The office may treat the person as the owner for administrative
18 purposes.]

19 (c) The office may reject a security interest entry form only for a reason set forth in
20 Section 26(c) and in the manner set forth in Section 26(e). Rejection for any other reason or in
21 any other manner constitutes receipt of the security interest entry form as of the business day on
22 which the form was delivered to the office[, and the security interest form is effective under
23 Section 26(a) and for purposes of perfection of an attached security interest under subsection
24 (a).] A security interest entry form that does not meet the requirements of Section 26(a) is

1 received as of the business day on which the form was delivered to the office, and is effective
2 under Section 26(a) and constitutes perfection under subsection (a), unless it is properly rejected
3 pursuant to Section 26(e). The failure of the office to index a security interest entry form
4 correctly or to indicate the security interest on the certificate of title does not affect the receipt or
5 effectiveness of the security interest entry form.

6 (d) A secured party may [assign or otherwise] transfer its rights as secured party under
7 this [act]. An otherwise valid transfer of a security interest is effective whether or not it is
8 reflected in the files of the office or indicated on the certificate of title. The [assignment or]
9 transfer vests in the transferee any rights of the secured party under this [act] [and the [Uniform
10 Commercial Code]] including, as applicable, perfection of the security interest as against
11 transferees from the vehicle's owner. [Perfection remains effective even if the transfer [and
12 transferee] of the security interest are not indicated in the files of the office or on the certificate of
13 title.] However, a purchaser of the vehicle that obtains a release from a secured party indicated
14 in the files of the office or on the certificate of title takes free of that security interest [and also
15 free of the rights of an assignee of that security interest if the assignment is not indicated in the
16 files of the office or on the certificate of title].

17 (e) During any period in which [collateral subject to this [act]] [a vehicle] is inventory
18 held for sale or lease by a person in the business of selling or leasing vehicles, or is leased by the
19 person as lessor, a security interest in the vehicle created by the person is not subject to this
20 section.

21 (f) A secured party may perfect a security interest by taking possession of a vehicle only
22 as provided in [Uniform Commercial Code Section 9-313(b) and 9-316(d)].

Preliminary Comments

Derived from UCC Article 9 Sections 9-310(a), 9-516(a) and (b), 9-517, and 9-520(a), (b), and (c). One purpose is to establish a system for perfection of security interests by filing a security interest entry form with the office, even if the secured party cannot obtain and surrender the certificate of title. Similarly, perfection does not require notation on a written certificate of title, although that does confer an additional measure of protection. *See* Sections 14, 16, and 17. Perfection by receipt of a security interest entry form under Sections 26 and 27, without notation on a certificate of title, or even if a certificate of title has not otherwise been created, will create a certificate of title and be sufficient for perfection. *See* Sections 4, 26, 27. Subsection (a) also makes clear that perfection under this section is the exclusive means of perfecting a security interest in a vehicle, except as provided in subsections (e) and (f), which follow UCC Article 9 Sections 9-311(d) and 9-313(b).

This section is subject to qualifications and exceptions elsewhere in this [act] and the UCC, *e.g.*, providing for perfection by filing or possession in limited circumstances (Article 9 Sections 9-311(d), 9-313(b)), or requiring attachment as a prerequisite to perfection (Section 26(a), Article 9 Sections 9-203, and 9-308(a)). This [act] is subject to general rules in the UCC governing assignments and the rights of third parties, *e.g.*, Article 9 Part 4, and this is recognized in subsection (d).

Perfection under Sections 26-27, without notation of the security interest on a written certificate of title, would be effective against lien creditors, but not against a competing party who relies on the certificate of title, pursuant to Sections 14-19. For example, a competing purchaser would prevail under Section 16.

Subsection (b) recognizes that a secured party, lessor, or bailor may be listed as owner on the certificate of title. This will be sufficient to perfect the interest of that person, including a security interest. This reflects current law. *See, e.g., In re Charles*, 323 F.3d 841 (10th Cir. 2003).

Subsection (d) makes clear that retitling is not necessary upon assignment of a security interest. This provision is modeled partly on Article 9 Sections 9-310(c) and 9-338 and makes clear that failure to indicate a transfer of the security interest in the files of the office or on the certificate of title does not affect the perfection or enforcement of the security interest in favor of the transferee, except that a purchaser of the vehicle or subsequent transferee of the security interest is entitled to rely on the certificate of title or files of the office and takes free of an interest not so indicated if the purchaser or subsequent transferee gives value in detrimental reliance on the certificate of title or files of the office. *See also* Section 18. For example, if a purchaser of the vehicle makes payment in full of the secured debt to the secured party indicated on the certificate of title, that debt would be discharged even if the debt and security interest had been assigned to another creditor.

1 As noted above, subsections (e) and (f) follow UCC Article 9 Sections 9-311(d), 9-313(b),
2 and 9-316(d), to provide consistency with the UCC.

3
4 A model lien entry form can be provided, consistent with the model forms in Article 9
5 Section 9-521.
6

7
8 **SECTION 28. TERMINATION STATEMENT.**

9 (a) The secured party indicated in the files of the office shall deliver to the office a
10 termination statement if:

11 (1) there is no obligation secured by the vehicle covered by the security interest and
12 no commitment to make an advance, incur an obligation, or otherwise give value; or

13 (2) the debtor did not authorize the filing of the security interest entry form.

14 (b) The secured party indicated in the files of the office shall deliver the termination
15 statement to the office:

16 (1) within [20] days after there is no obligation secured by the vehicle covered by the
17 security interest entry form and no commitment to make an advance, incur an obligation, or
18 otherwise give value; or

19 (2) if earlier, within [10] days after the secured party receives a signed demand from a
20 debtor and there is no secured by the vehicle and no commitment to make an advance, incur an
21 obligation, or otherwise give value.

22 (c) If a written certificate of title has been created and delivered to the secured party, the
23 secured party shall deliver the written certificate of title to the office with the termination
24 statement, within the time limits provided in subsection (b). If the written certificate of title has
25 been lost, stolen, mutilated, or destroyed, or is otherwise unavailable or illegible, the secured

1 party shall deliver with the termination statement, within the time limits provided in subsection
2 (b), an application for a replacement certificate of title meeting the requirements of Section 25.

3 (d) Upon the delivery of a termination statement to the office pursuant to this section the
4 security interest entry form and any notation of the security interest on the certificate of title to
5 which the termination statement relates ceases to be effective.

6 (e) Only the secured party whose interest is required to be terminated, or a person
7 authorized by that secured party, is under a duty to and may file a termination statement under
8 this [act].

9 (f) If it is established that a secured party has failed to comply with this section, the
10 secured party is liable for damages in the amount of any loss caused by the failure to comply,
11 including, as appropriate, the reasonable cost of an application for a certificate of title under
12 Sections 8 and 24.

13 (g) Upon termination of a security interest entry form under this section, the office shall
14 adjust its files to show termination of the security interest, and that any subsequent secured party
15 is the secured party of record. If a written certificate of title has been created indicating that the
16 security interest has been terminated, the office shall cancel that certificate of title, create a new
17 certificate of title under Sections 10 and 11, and deliver the new certificate of title in accordance
18 with Section 19.

19 Preliminary Comments

20 “Termination statement” is defined at Section 3(a)(31). The Uniform Security Interest Entry
21 Form at Section 29 includes a Termination statement.

SECTION 29. UNIFORM SECURITY INTEREST ENTRY FORM.

INSTRUCTIONS			
SECURED PARTY: <input type="checkbox"/> Type one Lien Entry Form for each Vehicle. <input type="checkbox"/> Verify the accuracy of all information on the Lien Entry Form with the Manufacturer's Statement of Origin (on New vehicles) or the Certificate of Title (on previously owned vehicles) <input type="checkbox"/> Submit copies 1 thru 6 (with stub and carbons intact), together with the required fee and title documents, to the office or Motor License Agent. MOTOR LICENSE AGENT: <input type="checkbox"/> Process all copies (1 thru 6). <input type="checkbox"/> Detach Copy 5 for M.L.A. file. <input type="checkbox"/> Send Copy 2 to the office. <input type="checkbox"/> Return copies 1, 3, 4, and 6, together with the appropriate title documents, to the Secured Party.			
DEBTOR NAMES AND ADDRESSES (LAST NAME FIRST)		SECURED PARTY NAME & ADDRESS	OFFICE USE ONLY
			MOTOR LICENSE AGENT USE ONLY
			DATE L.E.F. RECEIVED TIME RECEIVED <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
THIS SECURITY INTEREST ENTRY FORM COVERS THE FOLLOWING VEHICLE:			RECEIPT NUMBER
DATE OF SECURITY AGREEMENT	CERTIFICATE OF TITLE NO.	VEHICLE IDENTIFICATION NO. (V.I.N.)	MOTOR LICENSE AGENT (IDENTIFICATION/SIGNATURE)
MODEL YEAR	MAKE & MODEL	BODY TYPE	
TERMINATION STATEMENT - FOR SECURED PARTY USE • WHEN SECURITY INTEREST TERMINATED ONLY DATE SECURITY INTEREST TERMINATED _____ AUTHORIZED BY _____ <input type="checkbox"/> TERMINATION STATEMENT MAILED TO OKLA. TAX COMM. (DATE) _____ BY <input type="checkbox"/> FIRST CLASS MAIL <input type="checkbox"/> CERTIFIED MAIL <input type="checkbox"/> E-MAIL <input type="checkbox"/> TERMINATION STATEMENT MAILED TO DEBTOR ON _____ BY <input type="checkbox"/> FIRST CLASS MAIL <input type="checkbox"/> CERTIFIED MAIL <input type="checkbox"/> E-MAIL ENCLOSURES <input type="checkbox"/> PAID NOTE <input type="checkbox"/> _____ <input type="checkbox"/> DELIVERED IN PERSON I have completed the above tasks: (SIGN) _____			ASSIGNEE OF SECURED PARTY & ADDRESS
ENCLOSURES		SECURED PARTY / ASSIGNEE SIGNATURES	
<input type="checkbox"/> CERTIFICATE OF TITLE <input type="checkbox"/> APPLICATION FOR TITLE <input type="checkbox"/> MANUFACTURER'S STATEMENT OF ORIGIN (M.S.O.) <input type="checkbox"/> FEE		DATE EXECUTED _____ BY _____	
SECURITY INTEREST ENTRY FORM MOTOR VEHICLE [STATE]			

COPY 1: SECURED PARTY MASTER FILE - M.L.A. PROCESSES & RETURNS TO SECURED PARTY DATA BANK 0660

Preliminary Comments

“Security interest entry form” is defined at Section 3(a)(27). Effectiveness of a security interest entry form is determined under Section 26. A security interest entry form that is effective under Section 26 may constitute perfection of the security interest under Section 27. Proper use of this form means that the security interest entry form is sufficient under Section 26(b) upon attachment of the security interest, and therefore is effective under Section 26(a) if received by the office under Section 26(c)-(e).

This form can also be used as a termination statement. “Termination statement” is defined at Section 3(a)(31), and is otherwise governed by Section 28.

SECTION 30. DUTIES AND OPERATION OF FILING OFFICE.

(a) The office shall maintain a file of the information provided in a security interest entry

1 form received by the office under Section 26, for a least one year after termination of the security
2 interest entry form under Section 28. The information must be accessible by the vehicle
3 identification number for the vehicle and any other indexing methods as provided by the office.

4 (b) If a person that files a record with the office, or submits information that is accepted
5 by the office, requests an acknowledgment of the filing or submission, the office shall send to the
6 person an image or acknowledgment showing the vehicle identification number, the information
7 in the filed record or submission, and the date and time the record was received or the submission
8 accepted. A request under this section must contain the vehicle identification number and be
9 delivered by a means authorized by the office.

10 (c) The office shall send or otherwise make available in a record the following
11 information to any person that requests it:

12 (1) whether there is on file on a date and time specified by the office, but not a date
13 earlier than three business days before the office receives the request, any
14 certificate of title and security interest entry form that:

15 (A) covers a vehicle identified by a vehicle identification number designated in
16 the request; and

17 (B) has not been cancelled or terminated;

18 (2) the effective date of the security interest entry form; and

19 (3) the name of the owner of record, and all security interest entry forms indicated in
20 the files of the office that are not subject to a termination statement under Section
21 28.

22 (d) In responding to a request under this section, the office may communicate the

1 information in any medium. However, if requested, the office shall send the requested
2 information in a record that can be admitted into evidence in the courts of this state without
3 extrinsic evidence of its authenticity.

4 (e) The office shall perform the acts required under this section at the time and in the
5 manner prescribed by the rules of the office, but not later than two business days after the office
6 receives the request.

7 **Preliminary Comments**

8 Section 30 is derived from UCC Article 9 Sections 522-523.
9

10 11 **[SECTION 31. TITLE BRAND.]**

12 13 **Preliminary Comments**

14
15 [Left blank to allow a state to insert its title brand statute. *See* also definition of “title brand”
16 in Section 3, and Sections 8, 9, and 10.]
17

18 19 **SECTION 32. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In

20 applying and construing this uniform [act], consideration must be given to the need to promote
21 uniformity of the law with respect to its subject matter among states that enact it.
22

23 **SECTION 33. SEVERABILITY CLAUSE.** If any provision of this [act] or its application
24 to any person or circumstance is held invalid, the invalidity does not affect other provisions or
25 applications of this [act] which can be given effect without the invalid provision or application,
26 and to this end the provisions of this [act] are severable.
27

1 **SECTION 34. EFFECTIVE DATE.** This [act] takes effect

2
3 **SECTION 35. REPEALS.** The following acts and parts of acts are repealed:

4
5 **SECTION 36. SAVINGS CLAUSE.**

6 (a) Except as otherwise provided in this section, this [act] applies to any transaction,
7 certificate of title, record, or information within its scope, even if the transaction, certificate of
8 title, record, or information was entered into or created before this [act] takes effect.

9 (b) Except as otherwise provided in this section:

10 (1) transactions, certificates of title, records, and information that were validly entered
11 into or created before this [act] takes effect, and would be subject to this [act] if
12 they had been entered into or created after this [act] takes effect, and the rights,
13 duties, and interests flowing from these transactions, certificates of title, records,
14 and information, remain valid after this [act] takes effect; and

15 (2) the transactions, certificates of title, records, and information may be terminated,
16 completed, consummated, and enforced as required or permitted by this [act] or by
17 the law that otherwise would apply if this [act] had not taken effect.

18 (c) This [act] does not affect an action, case, or proceeding commenced before this [act]
19 takes effect.

20
21 **SECTION 37. TRANSITION CLAUSE.**

22 (a) A security interest that is enforceable immediately before this [act] takes effect and

1 would have priority over the rights of a person that becomes a lien creditor at that time is a
2 perfected security interest under this [act] if, when this [act] takes effect, the applicable
3 requirements for enforceability and perfection under this [act] are satisfied without further action.

4 (b) If, immediately before this [act] takes effect, a security interest is enforceable and
5 would have priority over the rights of a person that becomes a lien creditor at that time, but the
6 applicable requirements for enforceability or perfection under this [act] are not satisfied when
7 this [act] takes effect, the security interest:

8 (1) is a perfected security interest for one year after this [act] takes effect;

9 (2) remains enforceable thereafter only if the security interest becomes enforceable
10 under this [act] before the year expires; and

11 (3) remains perfected thereafter only if the applicable requirements for perfection
12 under this [act] are satisfied before the year expires.

13 **Preliminary Comment**

14 Sections 36 and 37 are derived from UCC Article 9 Sections 9-702 and 9-703.