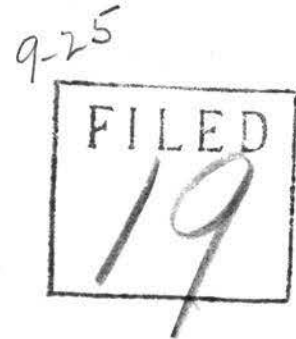


CHATTEL MORTGAGES: Section 3097A , Laws of Missouri
1939, must be followed to give notice
to the world of all chattel mortgages
except those given to a manufacturer
or dealer who do not come within the
act of 3097A.

September 19, 1939

Hon: Roy Coyne
Prosecuting Attorney
Jasper County
Joplin, Missouri



Dear Sir:

We are herein rendering you an opinion in accordance
with your request, regarding certain sections of House
Bill No. 546, as passed by the last General Assembly
known as Section 3097A Laws of Missouri, 1939, page 278.
Section 3097A reads as follows:

"It shall be the duty of the recorder of deeds,
on request of the mortgagee, or his assignee,
to certify on the certificate of title to the
mortgaged motor vehicle, that such chattel
mortgage has been filed showing the date, the
amount of the mortgage and the name of the pay-
ee. When such chattel mortgage is released it
shall be the duty of the recorder to so show
on the certificate of title. For services
herein provided the recorder shall receive a
fee of twenty cents (20 Cts.). A mortgage
on a motor vehicle shall not be notice to the
whole world, unless the record thereof is
noted on the certificate of title to the
mortgaged motor vehicle, as herein provided.
Provided, however, that the provisions of this
section shall not apply to chattel mortgages
given to secure the purchase price of any part
thereof or to a motor vehicle sold by the manu-
facturer or their distributing dealers, or to
a chattel mortgage given by dealers to secure
loans on the floor plan stock of motor vehicles."

I

Your first question reads as follows:

"When a refinancing is made of the original mortgage, is it necessary for the person doing the refinancing to present the title to the motor vehicle and have it stamped when the chattel mortgage is filed, if the person doing the financing or refinancing happens to be or does not happen to be the party doing the original financing when the sale is made of the motor vehicle."

Refinancing, means the cancellation of the original mortgage and the making of another mortgage covering the same motor vehicle, but which may be for a different amount or to a different person, or to the same person and of course will bear a different date. Section 3097A specifically says:

"*to certify on the certificate of title to the mortgaged motor vehicle, that such chattel mortgage has been filed showing the date, the amount of the mortgage and the name of the payee. * *"

The above quoted part of Section 3097A, supra, is not ambiguous, and when a refinancing is made, in order that the chattel mortgage be notice to the world, it would be necessary that the original mortgage be released on the certificate of title and a new stamp be made upon the certificate of title showing the different date, the different amount and, if to a different person, a different payee.

Therefore, it is the opinion of this department that when a refinancing is made of the original mortgage, it is necessary for the person doing the refinancing to present the title to the motor vehicle and have it stamped when the chattel mortgage is filed in order that the chattel mortgage be notice to the world.

II

The second part of your request reads as follows:

"When an individual sells a motor vehicle to another, is it necessary to have the Recorder certify on the title regarding the chattel loan, if the loan is taken as part of the purchase price of the car."

Section 3097A specifically reads:

" * * * Provided, however, that the provisions of this section shall not apply to chattel mortgages given to secure the purchase price of any part thereof or to a motor vehicle sold by the manufacturer or their distributing dealers, * * * ."

This proviso applies only to sale of cars by the manufacturer or their distributing dealers, and not to a sale by an individual to an individual, and therefore certification of the recorder must be made upon the certificate of title.

It is therefore our opinion that when an individual sells a motor vehicle to another, it is necessary to have the recorder certify on the certificate of title regarding the chattel loan, even if the loan is taken as part of the purchase price of the car.

III

The third and fourth paragraphs of your request read as follows:

"When a dealer or distributor sells a car which

is financed through a loan company or individual, is the notation which the Secretary of State makes on the title, which notation is made from the application showing outstanding liens sufficient, or is it necessary to have the Recorder of Deeds certify on the title because the individual purchasing the car is not the owner until he receives the title and the finance or loan company or individual loaning the purchaser of the vehicle the money is just making an outright loan on the motor vehicle.

"Is it permissible and regular for the Recorder of Deeds to certify on the title of the motor vehicle as to release of the lien which is shown on the title by the Secretary of State, of course making no charge for this."

In answer to the third and fourth paragraphs of your request, I am herein sending you a copy of an opinion rendered to your office on September 1st, 1939, which held that the provisions of Section 3097A, House Bill No. 546, Laws of Missouri, 1939, page 278, do not apply to mortgages given to manufacturers and dealers. In view of that opinion, we are still holding that Section 3097A does not apply to mortgages given to manufacturers and dealers, and for that reason the original certificate of title, when received by the repurchaser of the car, will contain the notations of the loan at the time of the consummation of the sale, since the provisions of Section 3097A, supra, do not apply to transactions between manufacturers and dealers with private individuals. We are further of the opinion that it is unnecessary to have the mortgage released upon the original certificate of title as received by reason of the form of application given the purchaser by the manufacturer or dealer. Since the original certificate of title is not stamped by the recorder of deeds, in compliance with Section 3097A, supra, it is not permissible for the recorder of deeds to certify on the title of the motor vehicle as to the release of the lien which is shown on the title by the Secretary of State.

Respectfully submitted,

APPROVED:

W. J. BURKE
Assistant Attorney General

TYRE W. BURTON
(Acting) Attorney General

WJB:RW