

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 3089

By Delegates Rohrbach and Funkhouser

[Originating in the Subcommittee on Legal Services;

Reported March 14, 2025]

1 A BILL to amend and reenact §17A-4A-1, §17A-4A-2, and §17A-4A-2a of the Code of West
2 Virginia, 1931, as amended, relating to mandating the use of the West Virginia Division of
3 Motor Vehicle's electronic lien and title system for all lien recordation for any person or
4 entity who records more than five liens in a calendar year and creating digital titles for
5 motor vehicle transactions.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE SHOWN ON
CERTIFICATE OF TITLE; NOTICE TO CREDITORS AND PURCHASERS.**

§17A-4A-1. Certificate to show liens or encumbrances.

1 The ~~division~~ Division upon receiving an application for a certificate of title to a vehicle,
2 trailer, semitrailer, pole trailer, factory-built home or recreational vehicle for which a certificate of
3 title is required under article three of this chapter, all of which are hereinafter in this article referred
4 to as vehicles, showing liens or encumbrances upon the vehicle, shall, upon issuing to the owner
5 thereof a certificate of title therefor, show upon the face of the certificate of title, or electronic record
6 thereof, all liens or encumbrances disclosed by the application. All liens or encumbrances shall be
7 shown in the order of their priority being according to the information contained in the application.
8 When an application shows liens and encumbrances, the information as evidence of the lien in
9 connection therewith as the division may consider necessary shall also be furnished. The
10 information shall include the name and address of the lienholder, the nature and kind of the lien,
11 the date thereof and the amount thereby secured. However, only the name and address of the
12 lienholder will be endorsed on the title certificate when said title is in paper format. Upon issuing
13 the certificate, or creating the digital title, the division shall thereupon send or deliver it by either
14 paper or electronic means to the holder of the first lien.

§17A-4A-2. Liens and encumbrances subsequently created.

1 (a) Liens or encumbrances placed on vehicles by the voluntary act of the owner after the

original issue of title to be properly recorded must be shown on the certificate of title, or electronic record thereof. In such cases, the owner or lienholder shall file application with the ~~department~~ Division on a blank furnished for that purpose, setting forth the lien or liens and such information and evidence of the lien in connection therewith as the ~~department~~ Division may deem necessary. Such information shall include the name and address of the lienholder, the kind of and nature of the lien, the date thereof, and the amount thereby secured. However, only the name and address of the lienholder shall be endorsed on the title certificate with the endorsement of the fact of such lien as hereinafter provided. The ~~department~~ Division, if satisfied that it is proper that the same be recorded, and upon surrender of the certificate of title covering the vehicle, shall thereupon issue a new certificate of title, showing the liens or encumbrances in the order of their filing being according to the date, hour and minute of receipt by the ~~department~~ Division of the application for same. For the purpose of recording a subsequent lien on a certificate of title, the subsequent lienholder shall make a written request upon the lienholder in possession of the certificate of title, accompanied by proof of the existence of the subsequent lien, stating his or her need to have possession of the certificate of title for the purpose of having his or her lien recorded thereon by the ~~Division. of Motor Vehicles~~ Thereupon, the lienholder in possession of the certificate shall within a reasonable time, not to exceed ten days from the receipt of said written request, deliver the certificate of title to the requesting subsequent lienholder.

Upon delivery of the certificate of title, the subsequent lienholder shall immediately forward it and the lienholder's own application to the ~~Division of Motor Vehicles~~ for the filing of the lien and for the recording of the same on the certificate of title. Upon issuing the new certificate, or creating a digital certificate, the ~~department~~ Division shall thereupon send or deliver it to the holder of the first lien.

(b) The provisions of subsection (a) of this section shall not apply to: (1) Vehicles held as inventory for sale by a registered dealer holding title by assignment entered upon a certificate of title; or (2) vehicles for which certificates of title have been issued and are held as inventory for

lease by a vehicle rental agency or similar person engaged solely in the business of leasing vehicles. Any lien or encumbrance placed on such vehicles by the voluntary act of the owner shall be created and perfected in accordance with the provisions of ~~article nine, chapter forty-six~~ §46-9-1, *et seq.* of this code.

§17A-4A-2a. Electronic transfer of liens.

~~(a) Notwithstanding any requirement in this chapter that a lien on a motor vehicle shall be noted on the face of the certificate of title, if there are one or more liens or encumbrance on a vehicle, trailer, semitrailer, pole trailer, factory-built home or recreational vehicle, the division may electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions may be electronically transmitted to the division and shall include the name and address of the person satisfying the lien and any other information required by the division as a condition of participating in the electronic lien information exchange program~~
All financial institutions, dealers, and anyone recording five or more liens in a calendar year must use the Division's electronic lien and title system.

~~(b) The division~~ Division may enter into agreements with a service provider or providers to administer the electronic exchange of lien information between dealers, financial institutions and ~~the division~~ Division. For the purposes of this section the term financial institutions shall have the same meaning as defined in ~~section ten-b, article six of this chapter~~ §17A-6-10b(8) of this code.

~~(c) When electronic transmission of liens and lien satisfaction is used, a hard copy certificate of title need not be issued until the last lien is satisfied and a clear hard copy certificate of title is issued to the owner of the vehicle. When a vehicle is subject to an electronic lien, the certificate of title for the vehicle shall be considered to be physically held by the lienholder for the purpose of compliance with state and federal odometer disclosure requirements and for any other requirement of this code~~
No paper certificate of title will be issued to a lienholder or owner of a vehicle after the Division's digital title system is fully adopted. A duly certified copy of the division's electronic record of the certificate of title and lien shall be admissible in any civil, criminal or

administrative proceeding in this state as evidence of the existence of the lien.

(d) If an insurance company, an occupational licensee of the Division authorized by the insurance company, or a salvage pool authorized by the insurance company is unable to obtain the properly endorsed certificate of ownership or other evidence of ownership acceptable to the Division within 15 days following oral or written acceptance of the owner of an offer of an amount in settlement of a total loss, that insurance company, licensee, or salvage pool, on a form provided by the Division and signed under penalty of perjury, may request the Division to issue a salvage certificate for the vehicle. The request shall attest that the requestor has attempted to obtain the certificate of ownership or other acceptable evidence of title. The attempt to obtain the certificate of ownership or other acceptable evidence of title shall be provided concurrently with the payment of the claim or by first-class mail, certificate of mailing, certified mail, other commercially available delivery service showing proof of delivery, or electronic mail.

(e) For the purposes of this chapter, whenever reference is made by this code to the physical production of a certificate of title as a paper document, or reference to the completion of information related to recording a lien as a paper document, the reference shall be understood to also include the transmission and recordation of the information in an electronic format.