

ASSEMBLY BILL NO. 309—ASSEMBLYMEN
FLORES, BOBZIEN; AND DIAZ

MARCH 18, 2013

Referred to Committee on Transportation

SUMMARY—Requires the Department of Motor Vehicles to contract for the establishment of an electronic lien system. (BDR 43-947)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Department of Motor Vehicles; requiring the Department to contract with a vendor or vendors for the establishment of an electronic lien system; setting forth the manner for participating in such a system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill directs the Department of Motor Vehicles to enter into one or more
2 contracts to establish and implement an “electronic lien system” to process the
3 notification and release of security interests by way of electronic batch file
4 transfers. This bill: (1) provides for the allocation of certain costs and fees
5 associated with such a system; (2) requires certain lienholders to participate in such
6 a system, with the date of required participation correlated to the size of the
7 particular lienholder; (3) sets forth the nature of the relationship between the
8 Department and any contractors; (4) provides for the validity of certified electronic
9 records; (5) directs the Department to adopt certain regulations relative to the
10 charging and collection of certain fees for expedited services; and (6) requires
11 the Department to submit a report concerning any such electronic lien system to the
12 78th Session of the Nevada Legislature.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.3. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall enter into one or more contracts pursuant to this section to establish, implement and operate, in lieu of the issuance and maintenance of paper documents otherwise required by this chapter, an electronic lien system to process the notification and release of security interests through electronic batch file transfers.

2. Any contract entered into pursuant to this section must not require the Department to pay any amount to a contractor unless otherwise provided in this section. A contractor must be required to reimburse the Department for any reasonable implementation costs directly incurred by the Department during the establishment and ongoing administration of the electronic lien system. A contract entered into pursuant to this section must include provisions specifically prohibiting a contractor from using information concerning vehicle titles for marketing or solicitation purposes.

3. The electronic lien system must allow qualified service providers to participate in the system. A lienholder may participate in the system through any qualified service provider approved by the Department for participation in the system.

4. Service providers may be required to collect fees from lienholders and their agents for the implementation and administration of the electronic lien system. The amount of the fee collected by a service provider and paid to a contractor for the establishment and maintenance of the electronic lien system must not exceed \$4 per transaction.

5. A contractor may also serve as a service provider under such terms and conditions as are established by the Department pursuant to the terms of a contract entered into pursuant to this section and the regulations adopted by the Department. If a contractor will also serve as a service provider:

(a) The Department may perform audits of the contractor at intervals determined by the Department to ensure the contractor is not engaged in predatory pricing. The contractor shall reimburse the Department for the cost of all audits.

(b) The contract between the Department and the contractor entered into pursuant to this section must include an acknowledgement by the contractor that the contractor is required to enter into agreements to exchange electronic lien data with all



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1 *service providers who offer electronic lien and title services to*
2 *lienholders doing business in the State of Nevada, have been*
3 *approved by the Department for participation in the electronic lien*
4 *system pursuant to this section and elect to use the contractor for*
5 *access to the electronic lien system. A service provider must not be*
6 *required to provide confidential or proprietary information to any*
7 *other service provider.*

8 *6. Except for persons who are not normally engaged in the*
9 *business or practice of financing vehicles, all lienholders are*
10 *required to participate in the electronic lien system.*

11 *7. For the purposes of this chapter, any requirement that a*
12 *lien or other information appear on a certificate of title is satisfied*
13 *by the inclusion of that information in an electronic file*
14 *maintained in an electronic lien system. The satisfaction of a lien*
15 *may be electronically transmitted to the Department. A certificate*
16 *of title is not required to be issued until the lien is satisfied or the*
17 *certificate of title is otherwise required to meet the requirements of*
18 *any legal proceeding or other provision of law. If a vehicle is*
19 *subject to an electronic lien, the certificate of title shall be deemed*
20 *to be physically held by the lienholder for the purposes of state or*
21 *federal law concerning odometer readings and disclosures.*

22 *8. A certified copy of the Department's electronic record of a*
23 *lien is admissible in any civil, criminal or administrative*
24 *proceeding in this State as evidence of the existence of the lien. If*
25 *a certificate of title is maintained electronically in the electronic*
26 *lien system, a certified copy of the Department's electronic record*
27 *of the certificate of title is admissible in any civil, criminal or*
28 *administrative proceeding in this State as evidence of the existence*
29 *and contents of the certificate of title.*

30 *9. The Director may adopt such regulations as are necessary*
31 *to carry out the provisions of this section, including, without*
32 *limitation:*

33 *(a) The amount of the fee a service provider is required to*
34 *charge pursuant to subsection 4 and pay to a contractor for the*
35 *establishment and maintenance of the electronic lien system.*

36 *(b) The qualifications of service providers for participation in*
37 *the electronic lien system.*

38 *(c) The qualifications for a contractor to enter into a contract*
39 *with the Department to establish, implement and operate the*
40 *electronic lien system.*

41 *(d) Program specifications that a contractor must adhere to in*
42 *establishing, implementing and operating the electronic lien*
43 *system.*

44 *(e) Additional requirements for and restrictions upon a*
45 *contractor who will also serve as a service provider.*



10. As used in this section:

(a) "Contractor" means a person who, pursuant to this section, enters into a contract with the Department to establish, implement and operate the electronic lien system.

(b) "Electronic lien system" means a system to process the notification and release of security interests through electronic batch file transfers that is established and implemented pursuant to this section.

(c) "Service provider" means a person who, pursuant to this section, provides lienholders with software to manage electronic lien and title data.

Sec. 1.5. NRS 482.429 is hereby amended to read as follows:

482.429 1. For its services under this chapter, the Department shall adopt regulations specifying the amount of the fees which the Department will charge and collect:

~~(1)~~ **(a)** For each certificate of title issued for a vehicle present or registered in this State.

~~(2)~~ **(b)** For each duplicate certificate of title issued.

~~(3)~~ **(c)** For each certificate of title issued for a vehicle not present in or registered in this State.

~~(4)~~ **(d)** *For expedited processing of a certificate of title issued pursuant to paragraph (a), (b) or (c).*

(e) *For expedited mailing of a certificate of title issued pursuant to paragraph (a), (b) or (c), that does not include prepaid postage.*

(f) For the processing of each dealer's or rebuilder's report of sale submitted to the Department.

~~(5)~~ **(g)** For the processing of each long-term lessor's report of lease submitted to the Department.

~~(6)~~ **(h)** For the processing of each endorsed certificate of title or statement submitted to the Department upon the sale of a used or rebuilt vehicle in this State by a person who is not a dealer or rebuilder.

2. *Any fee paid pursuant to paragraphs (d) and (e) of subsection 1 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund and allocated to the Department to defray the costs of processing and mailing certificates of title.*

Sec. 2. 1. The term of an initial contract entered into for the establishment of an electronic lien system pursuant to section 1.3 of this act must be for a fixed period of not less than 4 years.

2. The Department shall submit a report on or before February 1, 2015, to the 78th Session of the Legislature concerning the implementation of the electronic lien system.

3. Notwithstanding the provisions of section 1.3 of this act:



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1 (a) A lienholder is not required to participate in the electronic
2 lien system until the system has been in operation for 12 months.

3 (b) A lienholder who executes 26 or fewer liens in a calendar
4 year is not required to participate in the electronic lien system until
5 the system has been in operation for 24 months.

6 4. As used in this section:

7 (a) “Department” means the Department of Motor Vehicles.

8 (b) “Electronic lien system” means the system to process the
9 notification and release of security interests through electronic batch
10 file transfers that the Department is directed to establish and
11 implement pursuant to section 1.3 of this act.

12 **Sec. 3.** This act becomes effective upon passage and approval.

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