

Amendment No. 502

Assembly Amendment to Assembly Bill No. 309

(BDR 43-947)

Proposed by: Assembly Committee on Transportation**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DLJ/MSM



Date: 4/20/2013

A.B. No. 309—Requires the Department of Motor Vehicles to contract for certain electronic services. (BDR 43-947)



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 ~~for certain electronic services;~~ 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 ~~to establish and implement a system to process security interests electronically; requiring the Department to contract with a supplier to establish and implement such a~~ 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:

This bill directs the Department of Motor Vehicles to enter into one or more contracts to establish and implement an “electronic lien system” to process the notification and release of security interests by way of electronic batch file transfers. ~~To carry out this directive, the Department is further required to: (1) prepare a request for proposals to solicit bids from suppliers interested in furnishing electronic lien services to the Department; (2) establish parameters for the contract between the Department and the supplier who will furnish the electronic lien services; and (3) under certain circumstances, reimburse lost revenues of the supplier who is selected to fulfill the contract.~~ This bill: (1) provides for the allocation of certain costs and fees associated with such a system; (2) requires certain lienholders to participate in such a system, with the date of required participation correlated to the size of the particular lienholder; (3) sets forth the nature of the relationship between the Department and any contractors; (4) provides for the validity of certified electronic records; (5) directs the Department to adopt certain regulations relative to the charging and collection of certain fees for expedited services; and (6) requires the Department to submit a report concerning any such electronic lien system to the 78th Session of the Nevada Legislature.

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

Section 1. ~~NRS 482.292 is hereby amended to read as follows:~~

~~482.292 1. The Department may establish a program for the electronic submission and storage of documents.~~

~~2. If the Department establishes a program pursuant to subsection 1:~~

~~(a) An electronic submission or storage of documents that is carried out pursuant to the program with respect to a particular transaction is not valid unless all original documents required for the transaction pursuant to:~~

~~(1) The provisions of 49 U.S.C. §§ 32701 et seq.; and~~

~~(2) The provisions of any regulations adopted pursuant thereto, have been executed and submitted to the Department.~~

~~(b) The Department shall allow [only] the following persons, and may allow other persons, to apply for participation in the program:~~

~~(1) Financial institutions, new vehicle dealers and used vehicle dealers, for the purpose of submitting documents by electronic means to the Department on behalf of their customers;~~

~~(2) Owners of fleets composed of 10 or more vehicles.~~

~~(c) The Department shall adopt regulations to carry out the program.~~

~~3. The regulations required to be adopted pursuant to paragraph (c) of subsection 2 must include, without limitation:~~

~~(a) The type of electronic transmission that the Department will accept for the program.~~

~~(b) The process for submission of an application by a person who desires to participate in the program and the fee, if any, that must accompany the application for participation.~~

~~(c) The criteria that will be applied by the Department in determining whether to approve an application to participate in the program.~~

~~(d) The standards for ensuring the security and integrity of the process for issuance and renewal of a certificate of registration and a certificate of title, including, without limitation, the procedure for a financial and performance audit of the program.~~

~~(e) The terms and conditions for participation in the program and any restrictions on the participation.~~

~~(f) The contents of a written agreement that must be on file with the Department before a participant may submit a document by electronic means to the Department. Such written agreement must include, without limitation:~~

~~(1) An assurance that each document submitted by electronic means contains all the information that is necessary to complete the transaction for which the document is submitted;~~

~~(2) Certification that all the information contained in each document that is submitted by electronic means is truthful and accurate;~~

~~(3) An assurance that the participant who submits a document by electronic means will maintain all information and records that are necessary to support the document; and~~

~~(4) The signature of the participant who files the written agreement with the Department.~~

~~(g) The conditions under which the Department may revoke the approval of a person to participate in the program, including, without limitation, failure to comply with this section and NRS 482.294 and the regulations adopted pursuant thereto.~~

~~(h) The method by which the Department will store documents that are submitted to it by electronic means.~~

~~(i) The required technology that is necessary to carry out the program.~~

~~(j) Any other regulations that the Department determines necessary to carry out the program.~~

~~(k) Procedures to ensure compliance with:~~

~~(1) The provisions of 49 U.S.C. §§ 32701 et seq.; and~~

~~(2) The provisions of any regulations adopted pursuant thereto;~~

~~to the extent that such provisions relate to the submission and retention of documents used for the transfer of the ownership of vehicles.~~

~~4. Notwithstanding any provision of subsection 2 or paragraphs (a) to (j), inclusive, of subsection 3 to the contrary, the Department may, by regulation, require financial institutions, new vehicle dealers, used vehicle dealers or any other persons to participate in a program established pursuant to this section as a condition of submitting any or all documents to the Department.~~

~~5. The Department may accept gifts and grants from any source, including, without limitation, donations of materials, equipment and labor, for the establishment and maintenance of a program pursuant to this section.~~ (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 service providers who offer electronic lien and title services to lienholders doing business in the State of Nevada, have been approved by the Department for participation in the electronic lien system pursuant to this section and elect to use the contractor for access to the electronic lien system. A service provider must not be required to provide confidential or proprietary information to any other service provider.

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

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

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

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

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

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

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

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

(e) Additional requirements for and restrictions upon a 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 ~~11~~ (a) For each certificate of title issued for a vehicle present or registered in
2 this State.

3 ~~12~~ (b) For each duplicate certificate of title issued.

4 ~~13~~ (c) For each certificate of title issued for a vehicle not present in or
5 registered in this State.

6 ~~14~~ (d) *For expedited processing of a certificate of title issued pursuant to*
7 *paragraph (a), (b) or (c).*

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

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

12 ~~15~~ (g) For the processing of each long-term lessor's report of lease submitted
13 to the Department.

14 ~~16~~ (h) For the processing of each endorsed certificate of title or statement
15 submitted to the Department upon the sale of a used or rebuilt vehicle in this State
16 by a person who is not a dealer or rebuilder.

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

21 Sec. 2. 1. ~~Unless the Department determines that a suitable contractor is~~
22 ~~not available or the Department is not able to agree to terms with a qualified~~
23 ~~supplier, the Department shall, pursuant to the authority granted by NRS 482.293~~
24 ~~and not later than July 1, 2014, and in lieu of the issuance and maintenance of paper~~
25 ~~documents otherwise required by chapter 482 of NRS, establish and implement on~~
26 ~~a statewide basis a system to process the notification and release of security~~
27 ~~interests through electronic batch file transfers.~~

28 ~~2. Not later than September 1, 2013, the Department shall begin preparation~~
29 ~~of a request for proposals to solicit bids from interested suppliers to select a~~
30 ~~qualified supplier to perform the services required pursuant to this section. The~~
31 ~~request for proposals described in this subsection must be issued not later than~~
32 ~~October 1, 2013. The award of the contract, if any, resulting from the issuance of~~
33 ~~the request for proposals described in this subsection must occur not later than~~
34 ~~December 1, 2013.~~

35 ~~3. The Department shall include, without limitation, the following provisions~~
36 ~~in the contract with the qualified supplier:~~

37 ~~(a) The term of ~~the~~ an initial contract entered into for the establishment of~~
38 ~~an electronic lien system pursuant to section 1.3 of this act must be for a fixed~~
39 ~~period of not less than ~~7~~ 4 years.~~

40 ~~(b) The contract must not require the Department to pay any amount to the~~
41 ~~qualified supplier unless otherwise provided in this section. The qualified supplier~~
42 ~~must be required to reimburse the Department for any reasonable implementation~~
43 ~~costs directly incurred by the Department during establishment and ongoing~~
44 ~~administration of the electronic lien system.~~

45 ~~(c) The qualified supplier must be allowed to charge lienholders and their~~
46 ~~agents fees as set forth in the contract for implementation and administration of the~~
47 ~~electronic lien system.~~

48 ~~4. Participating lienholders and their agents shall collect a fee of not more~~
49 ~~than \$8 from the borrowers of an automotive loan or lessees of an automotive lease,~~
50 ~~where a lien is present, for lienholder participation in the electronic lien system.~~

51 ~~5. After the electronic lien system has been in operation for 12 months, except~~
52 ~~for lienholders who are not normally engaged in the business or practice of~~

~~financing vehicles, all lienholders must be required to participate in the electronic lien system.~~

~~6. The Department shall reimburse the qualified supplier for lost income from transaction fees if, after the initiation of services required by this section, for any reason the Department:~~

~~(a) Does not require lienholders to participate in the electronic lien system as required by subsection 5; or~~

~~(b) Terminates operation of the electronic lien system before the end of the term of the contract.~~

~~7. 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:~~

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

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

~~4. As used in this section:~~

~~(a) "Department" means the Department of Motor Vehicles.~~

~~(b) "Electronic lien system" means the system to process the notification and release of security interests through electronic batch file transfers that the Department is directed to establish and implement pursuant to subsection 1.~~

~~(c) "Qualified supplier" means a supplier who has:~~

~~(1) A minimum of 5 years' experience in directly providing electronic lien transactions to motor vehicle departments of other states or the District of Columbia; and~~

~~(2) A minimum of 10 years' experience in directly providing internet accessible electronic lien and title software and services to lienholders.] section 1.3 of this act.~~

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