

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SENATE BILL 407
RATIFIED BILL**

**AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO IMPLEMENT A
STATEWIDE ELECTRONIC LIEN SYSTEM TO PROCESS THE NOTIFICATION
AND RELEASE OF SECURITY INTERESTS AND CERTIFICATE OF TITLE DATA.**

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-58.4A. Electronic lien system.

(a) Implementation. – No later than July 1, 2014, the Division shall implement a statewide electronic lien system to process the notification, release, and maintenance of security interests and certificate of title data where a lien is notated, through electronic means instead of paper documents otherwise required by this Chapter. The Division may contract with a qualified vendor or vendors to develop and implement this statewide electronic lien system, or the Division may develop and make available to qualified service providers a well-defined set of information services that will enable secure access to the data and internal application components necessary to facilitate the creation of an electronic lien system.

(b) Minimum Standards for a Vendor Implemented System. – When contracting with a qualified vendor or vendors to implement the system required in subsection (a) of this section, the Division shall set the following minimum standards:

- (1) The Division shall issue a competitive request for proposal to assess the qualifications of any vendor or vendors responsible for the establishment and ongoing support of the statewide electronic lien system. The Division may also reserve the right to receive input regarding specifications for the electronic lien system from parties that do not respond to a request for proposal to establish and operate an electronic lien system.
- (2) Any contract entered into with a vendor or vendors shall include no costs or charges payable by the Division to the vendor or vendors. The vendor or vendors shall reimburse the Division for documented reasonable implementation costs directly associated with the establishment and ongoing support of the statewide electronic lien system.
- (3) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the qualified vendor or vendors may charge participating lienholders or their agents a per-transaction fee for each lien notification. The per-transaction lien notification fee shall be consistent with market pricing in an amount not to exceed three dollars and fifty cents (\$3.50) for costs associated with the development and ongoing administration of the electronic lien system. The qualified vendor or vendors shall not charge lienholders or their agents any additional fee for lien releases, assignments, or transfers. To recover their costs, participating lienholders or their agents may charge the borrower of a motor vehicle loan or the lessee of an automotive lease an amount equal to the transaction fee per lien notification plus a fee in an amount not to exceed three dollars (\$3.00) for each electronic transaction where a lien is notated.
- (4) A qualified vendor or vendors may also serve as a service provider to lienholders, if all of the following conditions are met:



- a. The contract with the vendor must include provisions specifically prohibiting the vendor from using information concerning vehicle titles for marketing or business solicitation purposes.
- b. The contract with the vendor must include an acknowledgment by the vendor that it is required to enter into agreements to exchange electronic lien data with any service providers who offer electronic lien and title services in the State and who have been approved by the Division for participation in the system and with service providers who are not qualified vendors.
- c. The Division must periodically monitor fees charged by a qualified vendor also serving as a service provider to lienholders and providing services as a qualified vendor to other service providers to ensure the vendor is not engaged in predatory pricing.

(c) Minimum Standards for Division-Developed System. – If the Division chooses to develop an interface to enable service provider access to data to facilitate the creation of an electronic lien system, then the Division shall do so for a cost not to exceed two hundred fifty thousand dollars (\$250,000) and set the following minimum standards:

- (1) The Division shall establish qualifications for third-party service providers offering electronic lien services and establish a qualification process that will vet applications developed by service providers for compliance with defined security and architecture standards as follows:
 - a. Qualifications shall be posted within 60 days of the effective date of this section.
 - b. Interested service providers shall respond by providing qualifications within 30 days of posting.
 - c. The Division shall notify service providers of their approval.
 - d. Within 30 days of approval, each qualified service provider shall remit payment in an amount equal to the development costs as a fraction of the number of qualified service providers participating in the electronic lien services.
 - e. If there is a service provider who later wishes to participate but did not apply or pay the initial development costs, then that provider may apply to participate if the provider meets all qualifications and pays the same amount in development costs as other participating service providers.
- (2) Each qualified service provider shall remit to the Division an annual fee not to exceed three thousand dollars (\$3,000) on a date prescribed by the Division to be used for the operation and maintenance of the electronic lien system.
- (3) Any contract entered into with a service provider shall include no costs or charges payable by the Division to the service provider.
- (4) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the service provider may charge participating lienholders or their agents a per-transaction fee consistent with market pricing.
- (5) The contract with the service provider must include provisions specifically prohibiting the service provider from using information concerning vehicle titles for marketing or business solicitation purposes.

(d) Qualified vendors and service providers shall have experience in directly providing electronic solutions to State motor vehicle departments or agencies.

(e) 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 encumbrances on the motor vehicle or mobile home, 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.

(f) When electronic transmission of liens and lien satisfactions is used, a certificate of title need not be issued until the last lien is satisfied and a clear certificate of title is issued to the owner of the vehicle.

(g) 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 purposes of compliance with State or federal odometer disclosure requirements.

(h) A duly certified copy of the Division's electronic record of the lien shall be admissible in any civil, criminal, or administrative proceeding in this State as evidence of the existence of the lien.

(i) Mandatory Participation. – Beginning July 1, 2015, all individuals and lienholders who are normally engaged in the business or practice of financing motor vehicles, and who conduct at least five transactions annually, shall utilize the electronic lien system implemented in subsection (a) of this section to record information concerning the perfection and release of a security interest in a vehicle.

(j) Effect of Electronic Notice or Release. – An electronic notice or release of a security interest made through the electronic system implemented pursuant to subsection (a) of this section shall have the same force and effect as a notice or release on a paper document provided under G.S. 20-58 through G.S. 20-58.8.

(k) Nothing in this section shall preclude the Division from collecting a title fee for the preparation and issuance of a title."

SECTION 2. Prior to the statewide implementation of the electronic lien system pursuant to G.S. 20-58.4A, the Division, along with one or more qualified vendors and up to five lienholders, may conduct a pilot program of the electronic lien system for a period of up to 90 days.

SECTION 3. No later than October 1, 2013, the Division shall report to the Chairs of the Joint Legislative Transportation Oversight Committee on the status of the implementation of the electronic lien system pursuant to G.S. 20-58.4A. The report shall include, at a minimum, whether the Division is proceeding with a vendor-implemented system or Division-implemented system and whether implementation is on schedule and on budget.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____, m. this _____ day of _____, 2013