

HOUSE BILL No. 1139

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-17-5-6.

Synopsis: Statewide electronic lien and title system. Requires the bureau of motor vehicles (bureau) to implement a statewide electronic lien and title system (system) to process: (1) vehicle titles; (2) certificate of title data in which a lien is notated; and (3) the notification, maintenance, and release of security interests in vehicles; through electronic means instead of paper documents. Provides that the bureau may: (1) contract with one or more qualified vendors to develop and implement a system; or (2) develop an interface to provide qualified electronic lien service providers secure access to data to facilitate the creation of a system. Sets forth certain requirements that apply if the bureau elects to implement the system through a qualified vendor versus through qualified electronic lien service providers. Specifies that a contract entered into between the bureau and: (1) a qualified vendor; or (2) a qualified electronic lien service provider; may not provide for any costs or charges payable by the bureau to the qualified vendor or the qualified electronic lien service provider. Sets forth dates by which the bureau must implement and allow or require the use of: (1) a statewide electronic lien system; and (2) a statewide electronic title system. Sets forth certain conditions that apply to the use of a statewide electronic lien system implemented by the bureau under these provisions. Authorizes the bureau to adopt rules, including emergency rules, to implement these provisions.

Effective: Upon passage.

Campbell

January 7, 2021, read first time and referred to Committee on Roads and Transportation.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1139

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-17-5-6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 6. (a) As used in this section, "qualified**
4 **service provider" means a person able to provide electronic lien or**
5 **electronic title services in coordination with vehicle lienholders and**
6 **state departments of motor vehicles.**
7 **(b) As used in this section, "qualified vendor" refers to a person**
8 **with whom the bureau contracts to:**
9 **(1) develop;**
10 **(2) implement; and**
11 **(3) provide ongoing support with respect to;**
12 **a statewide electronic lien and title system under this section.**
13 **(c) As used in this section, "statewide electronic lien and title**
14 **system" or "system" means a statewide electronic lien and title**
15 **system implemented by the bureau under this section to process:**
16 **(1) vehicle titles;**
17 **(2) certificate of title data in which a lien is notated; and**



1 (3) the notification, maintenance, and release of security
2 interests in vehicles;
3 through electronic means instead of paper documents.

4 (d) Not later than the dates set forth in subsection (h), the
5 bureau shall implement a statewide electronic lien and title system
6 for the following purposes:

7 (1) To facilitate and promote commerce and governmental
8 transactions by validating and authorizing the use of
9 electronic records.

10 (2) To modernize the law and eliminate barriers to electronic
11 commerce and governmental transactions resulting from
12 uncertainties related to handwritten and other written
13 materials.

14 (3) To promote uniformity of the law among the states
15 relating to the use of electronic and similar technological
16 means of effecting and performing commercial and
17 governmental transactions.

18 (4) To promote public confidence in the validity, integrity, and
19 reliability of electronic commerce and governmental
20 transactions.

21 (5) To promote the development of the legal and business
22 infrastructure necessary to implement electronic commerce
23 and governmental transactions.

24 (e) The bureau may:

25 (1) contract with one (1) or more qualified vendors to develop
26 and implement a statewide electronic lien and title system; or

27 (2) develop and make available to qualified service providers
28 a well defined set of information services that will enable
29 secure access to the data and internal application components
30 necessary to facilitate the creation of a statewide electronic
31 lien and title system.

32 (f) If the bureau elects under subsection (e)(1) to contract with
33 one (1) or more qualified vendors to develop and implement a
34 statewide electronic lien and title system, the following apply:

35 (1) The bureau shall issue a competitive request for proposals
36 to assess the qualifications of any vendor seeking to develop,
37 implement, and provide ongoing support for the system. The
38 bureau may reserve the right to receive input concerning
39 specifications for the establishment and operation of the
40 system from parties that do not respond to the bureau's
41 request for proposals.

42 (2) A contract entered into between the bureau and a qualified



1 vendor may not provide for any costs or charges payable by
2 the bureau to the qualified vendor. The qualified vendor shall
3 reimburse the bureau for any reasonable and documented
4 costs incurred by the bureau and directly associated with the
5 development, implementation, or ongoing support of the
6 system.

7 (3) Upon implementing a statewide electronic lien and title
8 system under this section, the qualified vendor may charge
9 participating lienholders or their agents a fee for each lien
10 notification transaction provided through the system, in order
11 to recover the qualified vendor's costs associated with the
12 development, implementation, and ongoing administration of
13 the system. A lien notification fee under this subdivision must
14 be consistent with market pricing and may not exceed three
15 dollars and fifty cents (\$3.50). The qualified vendor may not
16 charge lienholders or their agents any additional fee for lien
17 releases, assignments, or transfers. To recover their costs
18 associated with the lien, participating lienholders or their
19 agents may charge:

20 (A) the borrower in a vehicle loan; or

21 (B) the lessee in a vehicle lease;

22 an amount equal to any lien notification fee imposed by the
23 qualified vendor under this subdivision, plus a fee in an
24 amount not to exceed three dollars (\$3) for each electronic
25 transaction in which a lien is notated.

26 (4) A qualified vendor may also serve as a qualified service
27 provider to motor vehicle lienholders if the following
28 conditions are met:

29 (A) The contract between the bureau and the qualified
30 vendor must include provisions specifically prohibiting the
31 qualified vendor from using information concerning
32 vehicle titles for marketing or business solicitation
33 purposes.

34 (B) The contract between the bureau and the qualified
35 vendor must include an acknowledgment by the qualified
36 vendor that the qualified vendor is required to enter into
37 agreements to exchange electronic lien data with any:

38 (i) qualified service providers that offer electronic lien or
39 title services in Indiana and that have been approved by
40 the bureau for participation in the system; and

41 (ii) qualified service providers that are not qualified
42 vendors.



1 **(C) The bureau must periodically monitor the fees charged**
 2 **by a qualified vendor that also:**

3 **(i) serves as a qualified service provider to lienholders;**
 4 **or**

5 **(ii) provides services as a qualified vendor to other**
 6 **qualified service providers;**

7 **to ensure that the qualified vendor is not engaging in**
 8 **predatory pricing.**

9 **(g) If the bureau elects under subsection (e)(2) to develop an**
 10 **interface to provide qualified service providers secure access to**
 11 **data to facilitate the creation of a statewide electronic lien and title**
 12 **system, the following apply:**

13 **(1) The bureau shall establish:**

14 **(A) qualifications for third party service providers offering**
 15 **electronic lien services; and**

16 **(B) a qualification process to:**

17 **(i) evaluate electronic lien and title system technologies**
 18 **developed by third party service providers; and**

19 **(ii) determine whether such technologies comply with**
 20 **defined security and platform standards.**

21 **(2) Not later than July 1, 2021, the bureau shall publish on the**
 22 **bureau's Internet web site the qualifications established by**
 23 **the bureau under subdivision (1). A third party service**
 24 **provider that seeks to become qualified by the bureau under**
 25 **this subsection must demonstrate the service provider's**
 26 **qualifications, in the form and manner specified by the**
 27 **bureau, not later than thirty (30) days after the date of the**
 28 **bureau's publication under this subdivision. After the elapse**
 29 **of the thirty (30) day period during which third party service**
 30 **providers may respond to the bureau's publication under this**
 31 **subdivision, the bureau shall notify each responding third**
 32 **party service provider as to whether the third party service**
 33 **provider has met the qualifications established by the bureau**
 34 **under subdivision (1) and is approved to participate in the**
 35 **statewide electronic lien and title system.**

36 **(3) Not later than thirty (30) days after receiving a notice of**
 37 **approval from the bureau under subdivision (2), each**
 38 **qualified service provider shall remit to the bureau a payment**
 39 **in an amount equal to the total development costs of the**
 40 **system divided by the total number of qualified service**
 41 **providers participating in the system.**

42 **(4) If a third party service provider that did not:**



- 1 (A) submit proof of its qualifications under subdivision (2);
 2 or
 3 (B) pay initial development costs under subdivision (3);
 4 later wishes to participate in the system, the third party
 5 service provider may apply to the bureau to participate in the
 6 system. The bureau shall allow the third party service
 7 provider to participate in system if the third party service
 8 provider meets the qualifications established by the bureau
 9 under subdivision (1) and pays to the department the third
 10 party service provider's proportional share of the system
 11 development costs.
- 12 (5) Each qualified service provider shall remit to the bureau,
 13 on a date prescribed by the bureau, an annual fee established
 14 by the bureau and not to exceed three thousand dollars
 15 (\$3,000), to be used for the operation and maintenance of the
 16 system.
- 17 (6) A contract entered into between the bureau and a qualified
 18 service provider may not provide for any costs or charges
 19 payable by the bureau to the qualified service provider.
- 20 (7) Upon the implementation of a statewide electronic lien and
 21 title system under this section, a qualified service provider
 22 may charge participating lienholders or their agents
 23 transaction fees consistent with market pricing.
- 24 (8) The contract between the bureau and a qualified service
 25 provider must include provisions specifically prohibiting the
 26 qualified service provider from using information concerning
 27 vehicle titles for marketing or business solicitation purposes.
- 28 (h) Subject to subsection (i), the bureau shall implement, and
 29 allow or require the use of, a statewide electronic lien and title
 30 system under this section as follows:
- 31 (1) A statewide electronic lien system that is capable of
 32 processing:
- 33 (A) certificate of title data in which a lien is notated; and
 34 (B) the notification, maintenance, and release of security
 35 interests in vehicles;
 36 through electronic means must be made available for
 37 voluntary use by vehicle lienholders not later than July 1,
 38 2021.
- 39 (2) Subject to subsection (j)(5), the bureau shall require that
 40 the statewide electronic lien system made available under
 41 subdivision (1) be used for processing:
- 42 (A) certificate of title data in which a lien is notated; and



- 1 **(B) the notification, maintenance, and release of security**
 2 **interests in vehicles;**
 3 **after June 30, 2022.**
 4 **(3) A statewide electronic title system capable of processing**
 5 **vehicle titles through electronic means must be made**
 6 **available for voluntary use by vehicle dealers, lienholders, and**
 7 **owners not later than July 1, 2022.**
 8 **(4) The bureau shall require that the statewide electronic title**
 9 **system made available under subdivision (3) be used for**
 10 **processing vehicle titles after June 30, 2023.**
 11 **(i) Subsection (h) does not prohibit the bureau or any:**
 12 **(1) qualified vendor with whom the bureau contracts under**
 13 **subsection (f); or**
 14 **(2) qualified service provider with whom the bureau contracts**
 15 **under subsection (g);**
 16 **from implementing, making available, or requiring the use of a**
 17 **statewide electronic lien system described in subsection (h)(1) at**
 18 **the same time as, or in conjunction with, a statewide electronic title**
 19 **system described in subsection (h)(3), or from implementing,**
 20 **making available, or requiring the use of a statewide electronic lien**
 21 **system described in subsection (h)(1) or a statewide electronic title**
 22 **system described in subsection (h)(3) before the applicable dates**
 23 **otherwise set forth in subsection (h).**
 24 **(j) The following apply to the use of a statewide electronic lien**
 25 **system described in subsection (h)(1):**
 26 **(1) Notwithstanding section 5(b) of this chapter, if there are**
 27 **one (1) or more liens or encumbrances on a motor vehicle, the**
 28 **bureau may electronically transmit the lien to the first**
 29 **lienholder and notify the first lienholder of any additional**
 30 **liens. Subsequent lien satisfactions may be electronically**
 31 **transmitted to the bureau and must include the name and**
 32 **address of the person satisfying the lien.**
 33 **(2) Whenever the electronic transmission of lien notifications**
 34 **and lien satisfactions is used, a certificate of title need not be**
 35 **issued until the last lien is satisfied and a clear certificate of**
 36 **title can be issued to the owner of the motor vehicle.**
 37 **(3) If a motor vehicle is subject to an electronic lien, the**
 38 **certificate of title for the motor vehicle is considered to be**
 39 **physically held by the lienholder for purposes of compliance**
 40 **with state or federal odometer disclosure requirements.**
 41 **(4) A certified copy of the bureau's electronic record of a lien**
 42 **is admissible in any civil, criminal, or administrative**



- 1 proceeding in Indiana as evidence of the existence of the lien.
2 (5) All individuals and lienholders who conduct at least twelve
3 (12) lien transactions annually must use the statewide
4 electronic lien and title system implemented under this section
5 to record information concerning the perfection and release
6 of a security interest in a vehicle.
7 (6) An electronic notice or release of a lien made through the
8 statewide electronic lien and title system implemented under
9 this section has the same force and effect as a notice or release
10 of a lien made on a paper document.
11 (7) The bureau may convert an existing paper lien to an
12 electronic lien upon request of the primary lienholder. The
13 bureau, or a third party contracting with the bureau under
14 this section, is authorized to collect a fee not to exceed three
15 dollars (\$3) for each conversion performed under this
16 subdivision.
17 (k) Nothing in this section precludes the bureau from collecting
18 a title fee for the preparation and issuance of a title.
19 (l) The bureau may adopt rules under IC 4-22-2 to implement
20 this section, including emergency rules in the manner provided by
21 IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency
22 rule adopted by the bureau under this subsection and in the
23 manner provided by IC 4-22-2-37.1 expires on the date on which
24 a rule that supersedes the emergency rule is adopted by the bureau
25 under IC 4-22-2-24 through IC 4-22-2-36.
26 SECTION 2. An emergency is declared for this act.

