

HOUSE BILL No. 1258

DIGEST OF INTRODUCED BILL

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

Synopsis: Electronic lien and title system. Amends as follows the Indiana Code section requiring the bureau of motor vehicles (bureau) to implement a statewide electronic lien and title system (system) to process vehicle titles and transactions involving security interests in vehicles: (1) Provides that if the bureau elects under the statute to allow qualified electronic lien service providers (providers) to facilitate the creation of the system, a participating provider may, upon implementation of the system, recover the provider's proportionate share of the costs associated with the development and ongoing administration of the system by charging a fee in an amount that is: (A) consistent with market pricing; and (B) determined by the bureau upon implementation of the system; for each lien notification transaction provided through the system. (Current law provides that if the bureau elects under the statute to contract with a vendor to develop the system, the vendor may recover, upon implementing the system, system development and administration costs through the imposition of a fee. However, if the bureau elects to allow providers to facilitate the creation of the system, current law requires each participating provider to remit to the bureau, not later than 30 days after being notified of the provider's qualification to participate, a payment in the amount of the provider's proportionate share of the total cost to develop the system.) (2) Prohibits a provider from charging lienholders or their agents any additional fee for lien releases, assignments, or transfers (as is provided for in current law with respect to the lien notification fee that a vendor selected by the bureau is authorized to charge). (3) Authorizes lienholders or their agents to charge: (A) the borrower in a vehicle
(Continued next page)

Effective: July 1, 2022.

Pressel

January 10, 2022, read first time and referred to Committee on Roads and Transportation.



Digest Continued

loan; or (B) the lessee in a vehicle lease; an amount equal to any lien notification fee imposed by a provider, plus a fee in an amount not to exceed \$3 for each electronic lien transaction (as is provided for in current law if the bureau elects under the statute to contract with a vendor to develop the system). (4) Eliminates the requirement that each provider remit to the bureau an annual fee: (A) established by the bureau; and (B) not exceeding \$3,000; for the operation and maintenance of the system.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1258

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, AS ADDED BY P.L.81-2021, SECTION
2 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2022]: Sec. 6. (a) As used in this section, "qualified service provider"
4 means a person able to provide electronic lien or electronic title
5 services in coordination with vehicle lienholders and state departments
6 of motor vehicles.
7 (b) As used in this section, "qualified vendor" refers to a person with
8 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 system
15 implemented by the bureau under this section to process:

2022

IN 1258—LS 7189/DI 101



1 (1) vehicle titles;
2 (2) certificate of title data in which a lien is notated; and
3 (3) the notification, maintenance, and release of security interests
4 in vehicles;
5 through electronic means instead of paper documents.

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

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

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

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

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

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

23 (e) The bureau may:

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

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

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

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

41 (2) A contract entered into between the bureau and a qualified
42 vendor may not provide for any costs or charges payable by the



1 bureau to the qualified vendor. The qualified vendor shall
 2 reimburse the bureau for any reasonable and documented costs
 3 incurred by the bureau and directly associated with the
 4 development, implementation, or ongoing support of the system.

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

29 (A) The contract between the bureau and the qualified vendor
 30 must include provisions specifically prohibiting the qualified
 31 vendor from using information concerning vehicle titles for
 32 any commercial, marketing, business, or other purpose not
 33 specifically contemplated by this chapter.

34 (B) The contract between the bureau and the qualified vendor
 35 must include an acknowledgment by the qualified vendor that
 36 the qualified vendor is required to enter into agreements to
 37 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 the
 40 bureau for participation in the system; and

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

42 (C) The bureau must periodically monitor the fees charged by



1 a qualified vendor that also:

- 2 (i) serves as a qualified service provider to lienholders; or
 3 (ii) provides services as a qualified vendor to other qualified
 4 service providers;

5 to ensure that the qualified vendor is not engaging in predatory
 6 pricing.

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

11 (1) The bureau shall establish:

12 (A) the total cost to develop the statewide electronic lien and
 13 title system by July 1, 2021;

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

16 (C) 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 February 1, 2022, the bureau shall publish on
 22 the bureau's Internet web site the qualifications established by the
 23 bureau under subdivision (1). A third party service provider that
 24 seeks to become qualified by the bureau under this subsection
 25 must demonstrate the service provider's qualifications, in the form
 26 and manner specified by the bureau, not later than thirty (30) days
 27 after the date of the bureau's publication under this subdivision.
 28 After the elapse of the thirty (30) day period during which third
 29 party service providers may respond to the bureau's publication
 30 under this subdivision, the bureau shall notify each responding
 31 third party service provider as to:

32 **(A) the total cost to develop the system, as determined by**
 33 **the bureau under subdivision (1); and**

34 **(B) whether the third party service provider has met the**
 35 **qualifications established by the bureau under subdivision (1)**
 36 **and is approved to participate in the statewide electronic lien**
 37 **and title system.**

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



1 ~~system. notify the bureau of the qualified service provider's~~
 2 ~~intention to participate in the statewide electronic lien and~~
 3 ~~title system.~~

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

5 ~~(A) submit proof of its qualifications under subdivision (2) or~~

6 ~~(B) pay initial development costs under subdivision (3);~~

7 later wishes to participate in the system, the third party service
 8 provider may apply to the bureau to participate in the system. The
 9 bureau shall allow the third party service provider to participate
 10 in the system if the third party service provider meets the
 11 qualifications established by the bureau under subdivision (1).
 12 and pays to the department the third party service provider's
 13 proportional share of the system development costs.

14 ~~(5) Each qualified service provider shall remit to the bureau, on~~
 15 ~~a date prescribed by the bureau, an annual fee established by the~~
 16 ~~bureau and not to exceed three thousand dollars (\$3,000); to be~~
 17 ~~used for the operation and maintenance of the system.~~

18 ~~(6) (5) A contract entered into between the bureau and a qualified~~
 19 ~~service provider may not provide for any costs or charges payable~~
 20 ~~by the bureau to the qualified service provider. The qualified~~
 21 ~~service provider shall reimburse the bureau for the qualified~~
 22 ~~service provider's proportionate share of any reasonable and~~
 23 ~~documented costs incurred by the bureau and directly~~
 24 ~~associated with the development, implementation, or ongoing~~
 25 ~~support of the system.~~

26 ~~(7) (6) Upon the implementation of a statewide electronic lien and~~
 27 ~~title system under this section, a qualified service provider may~~
 28 ~~charge participating lienholders or their agents transaction fees~~
 29 ~~consistent with market pricing; a fee, in an amount that is~~
 30 ~~consistent with market pricing and is determined by the~~
 31 ~~bureau upon implementation of the system, for each lien~~
 32 ~~notification transaction provided through the system, in order~~
 33 ~~to recover the qualified service provider's proportionate share~~
 34 ~~of the costs associated with the development, implementation,~~
 35 ~~and ongoing administration of the system. The qualified~~
 36 ~~service provider may not charge lienholders or their agents~~
 37 ~~any additional fee for lien releases, assignments, or transfers.~~
 38 A fee under this subdivision may not be charged to a state agency
 39 or its agents for lien notification, lien release, lien assignment, or
 40 lien transfer. **To recover their costs associated with a lien,**
 41 **participating lienholders or their agents may charge:**

42 **(A) the borrower in a vehicle loan; or**



1 **(B) the lessee in a vehicle lease;**
 2 **an amount equal to any lien notification fee imposed by a**
 3 **qualified service provider under this subdivision, plus a fee in**
 4 **an amount not to exceed three (\$3) for each electronic**
 5 **transaction in which a lien is notated.**

6 ~~(8)~~ (7) The contract between the bureau and a qualified service
 7 provider must include provisions specifically prohibiting the
 8 qualified service provider from using information concerning
 9 vehicle titles for any commercial, marketing, business, or other
 10 purpose not specifically contemplated by this chapter.

11 (h) Subject to subsection (i), the bureau shall implement, and allow
 12 or require the use of, a statewide electronic lien and title system under
 13 this section as follows:

14 (1) A statewide electronic lien system that is capable of
 15 processing:

16 (A) certificate of title data in which a lien is notated; and

17 (B) the notification, maintenance, and release of security
 18 interests in vehicles;

19 through electronic means must be made available for voluntary
 20 use by vehicle lienholders not later than February 1, 2022.

21 (2) Subject to subsection (j)(5), the bureau shall require that the
 22 statewide electronic lien system made available under subdivision

23 (1) be used for processing:

24 (A) certificate of title data in which a lien is notated; and

25 (B) the notification, maintenance, and release of security
 26 interests in vehicles;

27 after June 30, 2022.

28 (3) A statewide electronic title system capable of processing
 29 vehicle titles through electronic means must be made available for
 30 voluntary use by vehicle dealers, lienholders, and owners not later
 31 than July 1, 2022.

32 (4) The bureau shall require that the statewide electronic title
 33 system made available under subdivision (3) be used for
 34 processing vehicle titles after June 30, 2023.

35 (i) Subsection (h) does not prohibit the bureau or any:

36 (1) qualified vendor with whom the bureau contracts under
 37 subsection (f); or

38 (2) qualified service provider with whom the bureau contracts
 39 under subsection (g);

40 from implementing, making available, or requiring the use of a
 41 statewide electronic lien system described in subsection (h)(1) at the
 42 same time as, or in conjunction with, a statewide electronic title system



1 described in subsection (h)(3), or from implementing, making
2 available, or requiring the use of a statewide electronic lien system
3 described in subsection (h)(1) or a statewide electronic title system
4 described in subsection (h)(3) before the applicable dates otherwise set
5 forth in subsection (h).

6 (j) The following apply to the use of a statewide electronic lien
7 system described in subsection (h)(1):

8 (1) Notwithstanding section 5(b) of this chapter, if there are one
9 (1) or more liens or encumbrances on a motor vehicle, the bureau
10 may electronically transmit the lien to the first lienholder and
11 notify the first lienholder of any additional liens. Subsequent lien
12 satisfactions may be electronically transmitted to the bureau and
13 must include the name and address of the person satisfying the
14 lien.

15 (2) Whenever the electronic transmission of lien notifications and
16 lien satisfactions is used, a certificate of title need not be issued
17 until the last lien is satisfied and a clear certificate of title can be
18 issued to the owner of the motor vehicle. The bureau may print or
19 issue electronically the clear certificate of title to the owner or
20 subsequent assignee of the motor vehicle.

21 (3) If a motor vehicle is subject to an electronic lien, the
22 certificate of title for the motor vehicle is considered to be
23 physically held by the lienholder for purposes of compliance with
24 state or federal odometer disclosure requirements.

25 (4) A certified copy of the bureau's electronic record of a lien is
26 admissible in any civil, criminal, or administrative proceeding in
27 Indiana as evidence of the existence of the lien. If a certificate of
28 title is maintained electronically in a statewide electronic title
29 system described in subsection (h)(3), a certified copy of the
30 bureau's electronic record of the certificate of title is admissible
31 in any civil, criminal, or administrative proceeding in Indiana as
32 evidence of the existence and contents of the certificate of title.

33 (5) All individuals and lienholders who conduct at least twelve
34 (12) lien transactions annually must use the statewide electronic
35 lien and title system implemented under this section to record
36 information concerning the perfection and release of a security
37 interest in a vehicle.

38 (6) An electronic notice or release of a lien made through the
39 statewide electronic lien and title system implemented under this
40 section has the same force and effect as a notice or release of a
41 lien made on a paper document.

42 (7) The bureau may convert an existing paper lien to an electronic



1 lien upon request of the primary lienholder. The bureau, or a third
2 party contracting with the bureau under this section, is authorized
3 to collect a fee not to exceed three dollars (\$3) for each
4 conversion performed under this subdivision. A fee under this
5 subdivision may not be charged to a state agency or its agents.

6 (8) Notwithstanding section 5 of this chapter, any requirement
7 that a security interest or other information appear on a certificate
8 of title is satisfied by the inclusion of that information in an
9 electronic file maintained in an electronic title system.

10 (k) Nothing in this section precludes the bureau from collecting a
11 title fee for the preparation and issuance of a title.

12 (l) The bureau may adopt rules under IC 4-22-2 to implement this
13 section, including emergency rules in the manner provided by
14 IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule
15 adopted by the bureau under this subsection and in the manner
16 provided by IC 4-22-2-37.1 expires on the date on which a rule that
17 supersedes the emergency rule is adopted by the bureau under
18 IC 4-22-2-24 through IC 4-22-2-36.

