

SUBJECT: Allowing TxDMV to require electronic reporting of lien notifications

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Phillips, Darby, Y. Davis, Fletcher, Lavender, Martinez,
McClendon, Pickett, Rodriguez

0 nays

2 absent — Bonnen, Harper-Brown

WITNESSES: For — (*Registered, but did not testify*: Steve Bresnen, Vintek, Inc.)

Against — None

BACKGROUND: Transportation Code, ch. 501 is the Texas Certificate of Title Act, which establishes requirements for titling vehicles in the state. The act prohibits the owner of a motor vehicle registered in the state from operating the vehicle on a public highway without a certificate of title for the vehicle or a registration record containing evidence that a certificate is held.

Sec 501.117 requires the Texas Department of Motor Vehicles (TxDMV) to develop a system in which a vehicle title may be assigned, changed, or canceled electronically. Lienholders may participate in the electronic system if they so choose.

DIGEST: CSHB 2575 would allow TxDMV to establish categories of lienholders that it could require to participate in the department's electronic lien system. The bill would repeal current law stating that participation by lienholders in the electronic system is voluntary. TxDMV would by rule establish a reasonable schedule for complying with requirements for use of the electronic system. The department could not prohibit or require a lienholder's use of an intermediary to access the system.

TxDMV could not require a credit union with fewer than 100 title notifications during a calendar year to participate in the electronic system. Certain other credit unions that had fewer than 200 title notifications within a specified time frame and met other conditions also would be temporarily exempt.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 2575 would update vehicle titling practices for financial institutions that offer loans for purchasing motor vehicles and TxDMV, which is charged with administering vehicle titles. TxDMV currently maintains an electronic system for title notifications — generally, a notice that a lien on a vehicle has been issued or satisfied — that has proved successful at providing a convenient and safe alternative to paper systems. Under the electronic system, a lender submits an electronic notice, rather than a paper notice, that a vehicle owner has satisfied a lien.

TxDmv initiated the electronic system in July 2009 and about 175 financial institutions now are participating. While this is a good benchmark for the new electronic system, the vast majority of financial institutions still use paper to report lien activity. Given the success of the electronic system among current participants and the potential for significant cost savings, TxDMV would like to expand the system by having the option of requiring larger financial institutions to participate. The department would not implement rules immediately, but would instead work with financial institutions to address any obstacles or other complications associated with implementing the electronic system. The department would adopt reasonable timetables for compliance and could exempt smaller institutions from the requirements.

Protection against fraud is the most pressing reason to expand use of an electronic system for titling. TxDMV has recorded numerous instances in the last year of fake release of lien forms being submitted in order to obtain a duplicate title, which would, if the ruse succeeded, show no lien on the vehicle. Having an electronic title notice system in place could help verify or invalidate a paper release of lien statement.

The bill would make some exceptions for very small credit unions that might not be set up to use the electronic system right away. Some smaller credit unions originate a fair number of auto loans and could need extra time to prepare for the transition to an electronic reporting system.

**OPPONENTS
SAY:**

Allowing TxDMV to require participation in an electronic lien notification system could result in a burden on smaller financial institutions that were not equipped with the resources to comply with the electronic notification requirements. Many smaller banks, for instance, still use the paper notices to report changes on vehicle liens. Some of these banks may need

additional time and instruction to use the electronic lien system.

**OTHER
OPPONENTS
SAY:**

CSHB 2575 unfairly would exempt credit unions with fewer than 100 title notices a year from potential requirements to electronically report changes to vehicle liens. This requirement creates an unlevel playing field in complying with potential vehicle lien report mandates between credit unions and banks. There is no good reason that credit unions but not banks should be exempted based on the criteria specified in the bill. The credit union exemption should be removed or expanded to include other financial institutions.

NOTES:

The committee substitute to HB 2575 exempted certain credit unions from inclusion in a requirement to participate in the electronic title notice system established by TxDMV.