WEST VIRGINIA CODE CHAPTER 17A ARTICLE 4A

WV Legislature

§17A-4A-1. Certificate to show liens or encumbrances.

The division upon receiving an application for a certificate of title to a vehicle, trailer, semitrailer, pole trailer, factory-built home or recreational vehicle for which a certificate of title is required under article three of this chapter, all of which are hereinafter in this article referred to as vehicles, showing liens or encumbrances upon the vehicle, shall, upon issuing to the owner thereof a certificate of title therefor, show upon the face of the certificate of title all liens or encumbrances disclosed by the application. All liens or encumbrances shall be shown in the order of their priority being according to the information contained in the application. When an application shows liens and encumbrances, the information as evidence of the lien in connection therewith as the division may consider necessary shall also be furnished. The information shall include the name and address of the lienholder, the nature and kind of the lien, the date thereof and the amount thereby secured. However, only the name and address of the lienholder will be endorsed on the title certificate. Upon issuing the certificate, the division shall thereupon send or deliver it by either paper or electronic means to the holder of the first lien.

WV Legislature

§17A-4A-2. Liens and encumbrances subsequently created.

(a) Liens or encumbrances placed on vehicles by the voluntary act of the owner after the original issue of title to be properly recorded must be shown on the certificate of title. In such cases, the owner or lienholder shall file application with the division on a blank furnished for that purpose, setting forth the lien or liens and such information and evidence of the lien in connection therewith as the division may deem necessary. Such information shall include the name and address of the lienholder, the kind of and nature of the lien, the date thereof, and the amount thereby secured. However, only the name and address of the lienholder shall be endorsed on the title certificate with the endorsement of the fact of such lien as hereinafter provided. The division, if satisfied that it is proper that the same be recorded, and upon surrender of the certificate of title covering the vehicle, shall thereupon issue a new certificate of title, showing the liens or encumbrances in the order of their filing being according to the date, hour, and minute of receipt by the division of the application for the same. For the purpose of recording a subsequent lien on a certificate of title, the subsequent lienholder shall make a written request upon the lienholder in possession of the certificate of title, accompanied by proof of the existence of the subsequent lien, stating his or her need to have possession of the certificate of title for the purpose of having his or her lien recorded thereon by the division. Thereupon, the lienholder in possession of the certificate shall within a reasonable time, not to exceed 10 days from the receipt of said written request, deliver the certificate of title to the requesting subsequent lienholder.

Upon delivery of the certificate of title, the subsequent lienholder shall immediately forward it and the lienholder's own application to the division for the filing of the lien and for the recording of the same on the certificate of title. Upon issuing the new certificate, the division shall thereupon send or deliver it to the holder of the first lien.

(b) The provisions of subsection (a) of this section shall not apply to: (1) Vehicles held as inventory for sale by a registered dealer holding title by assignment entered upon a certificate of title; or (2) vehicles for which certificates of title have been issued and are held as inventory for lease by a vehicle rental agency or similar person engaged solely in the business of leasing vehicles. Any lien or encumbrance placed on such vehicles by the voluntary act of the owner shall be created and perfected in accordance with the provisions of §46-9-1 *et seq*. of this code.

WVLegislature

§17A-4A-2a. Electronic transfer of liens.

(a) 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 encumbrance on a vehicle, trailer, semitrailer, pole trailer, factory-built home, or recreational vehicle, 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 and any other information required by the division as a condition of participating in the electronic lien information exchange program.

(b) The division may enter into agreements with a service provider or providers to administer the electronic exchange of lien information between dealers, financial institutions, and the division. For the purposes of this section, the term financial institutions shall have the same meaning as defined in §17A-6-10b of this code.

(c) When electronic transmission of liens and lien satisfaction is used, a hard copy certificate of title need not be issued until the last lien is satisfied and a clear hard copy certificate of title is issued to the owner of the vehicle. 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 the purpose of compliance with state and federal odometer disclosure requirements and for any other requirement of this code. A duly certified copy of the division's electronic record of the certificate of title and lien shall be admissible in any civil, criminal, or administrative proceeding in this state as evidence of the existence of the lien.

(d) For the purposes of this chapter, whenever reference is made by this code to the physical production of a certificate of title as a paper document, or reference to the completion of information related to recording a lien as a paper document, the reference shall be understood to also include the transmission and recordation of the information in an electronic format.

(e) Beginning July 1, 2025, all financial institutions recording five or more liens in a calendar year shall use the division's electronic lien and title system for all lien actions. The division is not required to issue certificates of title as a paper document to a lienholder after the division’s electronic lien and title system is fully implemented: *Provided*, That nothing in this section invalidates, prohibits a person from requesting, or prevents the division from issuing a certificate of title as a paper document.

WV Legislature

§17A-4A-3. Notice of lien; noninventory lien created by voluntary act of the owner not shown on certificate of title or otherwise perfected void as to subsequent purchasers and lien creditors; exceptions.

(a) A certificate of title, when issued by the division showing a lien or encumbrance, shall be considered from and after the filing with the division of the application therefor or the notice of lien authorized in section four of this article adequate notice to the state and its agencies, boards and commissions, to the United States government and its agencies, boards and commissions, to creditors and to purchasers that a lien against the vehicle exists.

(b) Notwithstanding any other provision of this code to the contrary, and subject to the provisions of subsection (c) of this section, any lien or encumbrance placed on a vehicle by the voluntary act of the owner shall be void as against: (i) Any lien creditor who, without knowledge of the lien, acquires by attachment, levy or otherwise a lien thereupon, unless the lien or encumbrance is noted on the certificate of title, a filed application for certificate of title or the notice of lien authorized in section four of this article; and (ii) any purchaser who, without knowledge of the lien or encumbrance, purchases the vehicle, unless the lien or encumbrance is noted on the certificate of title, a filed application for certificate of title or the notice of lien authorized in section four of this article: Provided, That a purchaser under this subsection who purchases the vehicle without knowledge of the lien or encumbrance and contemporaneously obtains actual physical possession of the vehicle and the certificate of title for the vehicle without the lien or encumbrance noted on the certificate of title, receives the vehicle free and clear of the lien or encumbrance.

(c) The creation and perfection of a lien against: (1) A vehicle held as inventory for sale by a registered dealer holding title by assignment; or (2) a vehicle for which a certificate of title has been issued and is held as inventory for lease by a vehicle rental agency or similar person engaged solely in the business of leasing vehicles in accordance with the provisions of article nine, chapter forty-six of this code shall be deemed adequate notice to the state and its agencies, boards and commissions, to the United States government and its agencies, boards and commissions, to creditors and to purchasers that a lien against the vehicle exists, subject to the provisions of section three hundred seven, article nine, chapter forty-six of this code, except that any lien or encumbrance on such a vehicle shall not be effective against the rights of any purchaser for value who purchases the vehicle primarily for personal, family, household or agricultural purposes unless such lien or encumbrance is recorded on the certificate of title or specified on the bill of sale.

WV Legislature

§17A-4A-4. Purchase money lien or encumbrance; effective date of lien; dealer to record lien; fees.

(a) A purchase money lien or encumbrance upon any vehicle shall be perfected on the date and at time of delivery to the Division of Motor Vehicles of either the application for a certificate of title with all supporting documents, or a completed notice of lien form in a format determined by the division. The notice of lien form may be submitted to the division in paper format, facsimile or in any other electronic format approved by the division.

(b) If perfection occurs through the notice of lien form pursuant to subsection (a) of this section, an application for certificate of title must be received by the Division of Motor Vehicles within sixty days after the date of purchase of the vehicle or refinancing of such purchase in order to maintain the perfected status of such lien or encumbrance. When an application is not filed within the time prescribed, the lien or encumbrance shall become unperfected on the sixty-first day following the purchase or refinancing date of the vehicle. If an application for a certificate of title is received by the division on or after the sixty-first day, the new perfection date for the lien or encumbrance is the date the application for a certificate of title is received by the division. Nothing in this section extends the sixty-day title application filing requirement of section four, article four of this chapter. The name and address of the lien holder shall be recorded on this title by the division in either electronic or paper format.

(c) No certificate of title for a vehicle shall be issued unless an application is delivered to the Division of Motor Vehicles.

(d) In all transactions involving a purchase money lien or encumbrance upon a motor vehicle, the motor vehicle dealer shall collect and remit to the Division of Motor Vehicles the title, tax and registration fees required under section four, article three of this chapter and file and record with the Division of Motor Vehicles any lien created as a result of the transaction: Provided, That a motor vehicle dealer may remit the title, tax and registration fees through any license service that is licensed by the Division of Motor Vehicles.

(e) No fee may be charged by a motor vehicle dealer for its services required under this section except that fee authorized by section one-b, article six of this chapter or subdivision (6), subsection (a), section one hundred nine, article three, chapter forty-six-a of this code.

(f) For purposes of this section, a purchase money lien or encumbrance is defined to include: (1) A lien taken or retained by the seller or the vehicle to secure all or a part of its price; (2) a lien taken by a person who by making advances or incurring an obligation gives value to enable another to acquire rights in or the use of a vehicle if such value is so used; and (3) the refinancing of either of the foregoing for the sole purpose of repaying a loan secured by the vehicle.

WV Legislature

§17A-4A-5. Priority of liens shown on certificate.

The liens shown upon a certificate of title issued by the department pursuant to applications for same shall have priority over any other liens against such vehicle, however created and recorded, except as otherwise provided in this article.

WV Legislature

§17A-4A-6. Who to hold certificate of title subject to lien; transfer of possession upon satisfaction of lien; assignment of obligation by lien holder.

The certificate of title of such vehicle shall be delivered to the person, firm or corporation holding the first lien or encumbrance upon the vehicle and retained by him or them until the entire amount of his or their lien is fully paid. Thereupon the certificate of title shall be delivered to the next lien holder, and so on, or if none, then to the owner of the vehicle. It shall be the responsibility of each lienor upon the satisfaction of his lien to deliver said certificate of title to the lienor next entitled to the possession thereof and, if none to the owner, which acts of delivery may be accomplished through registered or certified mail addressed to the lienor or the owner entitled to such possession at his address as shown upon said certificate. In the event of assignment of the obligation by a lienholder who lawfully has possession of the certificate of title at the time of assignment, the lienholder shall deliver the certificate of title to his assignee who shall be entitled to hold the same until the obligation is satisfied, at which time the assignee shall deliver the certificate of title to the next lienholder, or if none, then to the owner of the vehicle. In the event of assignment of the obligation by a lienholder not entitled to possession of the certificate of title at the time of assignment, the lienholder shall immediately upon becoming lawfully entitled to, and obtaining lawful possession of, the certificate of title, deliver the same to his assignee who shall be entitled to hold the same until the obligation is satisfied, at which time the assignee shall deliver the certificate of title to the next lienholder, or if none, then to the owner of the vehicle.

WV Legislature

§17A-4A-7. Release of lien or encumbrance shown on certificate of title.

An owner upon securing the release of any lien or encumbrance upon a vehicle shown upon the certificate of title issued therefor may exhibit the document evidencing such release, signed by the person or persons making the release and acknowledged before a notary public or someone authorized by the laws of this state to take acknowledgments of deeds, and this document together with the certificate of title shall be returned to the division; or the lienholder may release the lien by endorsing across the lien in his or her favor on the face of the title or closely adjacent thereto the following words or words of similar effect or purport: "This lien, this day fully paid, satisfied and released, this day of ," and duly signing and executing said endorsement and acknowledging the same before a notary public and having the notary public execute a certificate of the acknowledgment in the form required for releasing deeds of trust in this state; or when it is impossible to secure either such release from the beneficiary or holder of the lien, the owner may exhibit to the division whatever evidence may be available showing that the debt secured has been satisfied, together with a statement by the owner under oath that the debt has been paid and the certificate of title to such vehicle. The division when satisfied as to the genuineness and regularity thereof shall issue to the owner either a new certificate of title in proper form or an endorsement or rider showing the release of the lien or encumbrance which the division shall attach to the outstanding certificate of title. For the purposes of this article, the term release shall mean either an electronic or paper transaction format.

WV Legislature

§17A-4A-8. Failure to execute release or to surrender certificate when lien paid.

It shall be unlawful and constitute a misdemeanor for a lienor who holds a certificate of title either electronically or in a paper format as provided in this article to refuse or fail to execute a release as provided for in the next preceding section, or to refuse or fail to surrender the certificate of title to the person legally entitled thereto within fifteen days after the lien shall have been paid and satisfied.

WV Legislature

§17A-4A-9. Levy of execution, etc.

A levy made by virtue of an execution, fieri facias or other proper court order, upon a vehicle for which application for a certificate of title has been filed with the department, shall constitute a recorded lien, with the effect of constructive notice thereof to all persons, subsequent to holders of liens or encumbrances theretofore filed with the department, only from and after the time when the officer making such levy files a report to and with the department of motor vehicles, on forms provided therefor by the department, that such levy has been made and that the vehicle thus levied upon has been seized by and is in the actual custody of such officer; and the provisions of any other article, chapter or section of this code to the contrary notwithstanding, the docketing or recording of any such execution, fieri facias or other court order in the office of the clerk of the county court of any county in this state shall not constitute constructive notice thereof as to any such vehicle.

Such report by such officer shall show among other things the full names of the parties to the proceeding upon which the execution, fieri facias or court order is based; the identity of the court, judge or justice of the peace or other judicial officer from which said execution, fieri facias or other court order was issued; the amount required for the satisfaction thereof; the date thereof; the date and hour when received by the officer; the date, hour and minute of the levy, attachment or other execution of said process and the taking into actual custody of said vehicle; the date returnable; the make, year, body style of the vehicle to which the lien of said execution, fieri facias or court order relates as well as the name of the person or persons whose interest or ownership therein is intended to be affected by the lien of such execution, fieri facias or court order. Such report shall also show, if known, the serial number of such vehicle, the current West Virginia registration card number and current West Virginia registered owner thereof and current West Virginia license plate number, and if any item in this sentence enumerated for listing on such report is unknown to the reporting officer the report shall state that such item is unknown to the officer. Such report shall be dated, signed and certified by the reporting officer and such certification shall constitute an official act on his part. The department shall by endorsement upon or attachment to its records note the officer's report and the day and hour and the minute received upon its record copy of the certificate of title thereby affected; should such lien be thereafter satisfied or should the vehicle thus levied upon and seized be thereafter released by such officer, he shall immediately report that fact to the department of motor vehicles and the department shall in a like manner note such fact. Any owner who after such levy and seizure by an officer and before the report thereof by the officer to the department shall fraudulently assign or transfer his title to or interest in such vehicle or cause the certificate of title thereto to be assigned or transferred or cause a lien or encumbrance to be shown upon such certificate of title shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $25 nor more than $500, or imprisoned in jail for not less than ten days nor more than twelve months.

The actual possession of the levying or attaching officer of the law or the actual possession of some person, other than the judgment or attachment debtor, holding such property for the officer, shall constitute notice of the lien, if any, of the execution, fieri facias, or other

www.LegisTure.com

court order under which he levies and seizes or otherwise takes possession.

For any vehicle as to which an involuntary lien has been reported and noted by the department and for which there has been no report of release or satisfaction by the levying or seizing officer, if application be made for the transfer of title thereto or issuance of new certificate of title therefor to the current registered owner or to someone claiming by assignment of title certificate from such registered owner or if application be made pursuant to the provisions of this article for the endorsement upon the certificate of title to such vehicle of a lien or encumbrance created by the voluntary act of the owner and the issuance of a new certificate of title showing the same, such involuntary lien, for which the department's records show no report of satisfaction or release, and the information furnished in the officer's report thereof together with the date, hour and minute of receipt of such report shall be endorsed upon such new certificate of title issued pursuant to any of such applications.

WV Legislature

§17A-4A-10. Fee for recording and release of lien.

The Division of Motor Vehicles is hereby authorized to charge a fee of $10 for the recording of any lien either in an electronic or paper format created by the voluntary act of the owner and endorsing it upon the title certificate issued pursuant to this article. The Division of Motor Vehicles may adjust the fee for each lien recording every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The Division of Motor Vehicles is hereby authorized to charge a fee of $10 for recordation of any release of a lien created by the voluntary act of the owner. The Division of Motor Vehicles may adjust the fee for each recording of a lien release every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in the fee may not exceed ten percent of the total fee amount in a single year: Provided, however, That no charge shall be made for the endorsement and recordation of liens or releases thereof as provided under section nine of this article. No charge shall be made for the issuance of a title to the owner of a vehicle upon the receipt of an electronic release of the final lien.

The provisions of this section enacted in 2017 take effect on July 1, 2017.

WV Legislature

§17A-4A-11. Article to create no cause of action against lienor for damage to property or injury to person.

The exercise by the lienor of the rights and privileges in this article given him shall not in and of itself give rise to a cause of action against such lienor for damages resulting from any act or omission of the registered and beneficial owner of the vehicle in said registered owner's dominion, ownership, use, operation or control thereof.

WV Legislature

§17A-4A-12. Article not to apply to certain common-law and statutory liens.

The provisions of this article shall not be construed so as to require common-law mechanic's liens or repairman's liens, or the lien of an improver or bailee as provided in article eleven, chapter thirty-eight of the Code of West Virginia, 1931, as amended, to be shown on the certificate of title in order to preserve such liens against any purchaser for value or lien creditor who, in either case, without notice of such lien or encumbrance, purchases such vehicle or acquires by attachment, levy or otherwise a lien thereupon.

WV Legislature

§17A-4A-13. Article not to apply to vehicle accessories.

The provisions of this article shall not apply to the recording of a lien or liens which are created only upon tires, radios, heaters, or other vehicle accessories.

WV Legislature

§17A-4A-14. Effect of article on liens and encumbrances created in transactions consummated before vehicle brought into state and subject to registration and titling in state.

As to bona fide purchasers for value or lien creditors without notice, the provisions of this article shall not be construed so as to invalidate or render void any lien or encumbrance placed upon a vehicle, by the voluntary act of the owner, in a transaction consummated before the vehicle is brought into this state, and before the same is subject to registration in the State of West Virginia, and before the application for a West Virginia certificate of title is required so long as such a lien or encumbrance has been properly recorded according to the laws of the jurisdiction in which it was created so as to be valid against bona fide purchasers for value or lien creditors without notice and so long as such lien or encumbrance is of such kind, nature and character as the law of this state would otherwise protect against such purchasers and lien creditors: Provided, however, That after such vehicle is brought into this state and after it is required to be registered and titled in this state, such lien or encumbrance as in this section described shall be void as to any purchaser for value or lien creditor, who, in either case, without notice of such lien or encumbrances, purchases such vehicle or acquires by attachment, levy or otherwise a lien thereupon, unless such lien holder, within three months after the removal of such vehicle into this state or within ten days after such lien holder received notice of such removal, whichever period of time is least, shall, in the manner set forth in section two of this article file application with the department in which case the department shall proceed as in section two of this article.

WV Legislature

§17A-4A-15. Expiration of lien or encumbrance; refiling.

The filing of any lien or encumbrance and its recordation upon the face of a certificate of title to any vehicle as provided in this article is valid for fifteen years only from the date of filing, unless the lienholder refiles the lien or encumbrance in the manner provided in this article for filing and recordation in the first instance, in which event the lien or encumbrance is valid for successive additional periods of five years from the date of each refiling: Provided, That this article does not require the lienholder to obtain the consent of the owner to refile the lien or encumbrance: Provided, however, That in the case of a mobile home or manufactured home, the filing of any lien or encumbrance and its recordation upon the face of a certificate of title to the mobile home or manufactured home is valid for a period of thirty-three years from the date of filing.

When the last lien or encumbrance shown on a certificate of title becomes invalid by the passage of time as provided in this section, the Commissioner of Motor Vehicles is not required to maintain a lien index as to the certificate of title.

WV Legislature

§17A-4A-16. Vehicle leases which are not sales or security interests.

In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a conditional sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

WV Legislature