

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 650
Committee Substitute Favorable 5/5/21

Short Title: Omnibus DMV Bill.

(Public)

Sponsors:

Referred to:

April 26, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE MULTIPLE CHANGES TO MOTOR VEHICLE LAWS.
3 The General Assembly of North Carolina enacts:
4

5 **REVISE VEHICLE DEALER LICENSING LAWS**

6 **SECTION 1.1.** G.S. 20-287 reads as rewritten:

7 **"§ 20-287. Licenses required; penalties.**

8 (a) License Required. – It shall be unlawful for any new motor vehicle dealer, used motor
9 vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory
10 representative, distributor, distributor branch, distributor representative, or wholesaler to engage
11 in business in this State without first obtaining a license as provided in this Article. If any motor
12 vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle
13 sales representative's license in addition to a motor vehicle dealer's license. ~~A sales representative~~
14 ~~may have only one license.~~ The sales representative license shall show the name of ~~the each~~
15 dealer or wholesaler employing the sales representative. An individual who has submitted an
16 application to the Division for a sales representative license pursuant to G.S. 20-288(a) ~~shall be~~
17 ~~permitted to~~ may engage in activities as a sales representative while the application is pending
18 ~~provided that~~ under the following conditions: (i) the sales representative applicant is actively and
19 directly supervised by a licensed motor vehicle dealer or a licensed sales representative
20 designated by the dealer, ~~provided further that~~ (ii) the applicant certifies in the application that
21 the applicant has not been previously denied a sales representative license for any dealer by the
22 ~~Division and that~~ Division on nonprocedural grounds, and (iii) the applicant has not been
23 previously convicted of a felony. Any license issued by the Division to a motor vehicle dealer,
24 manufacturer, factory branch, factory representative, distributor, distributor branch, distributor
25 representative, or wholesaler under this Article may not be assigned, sold, or otherwise
26 transferred to any other person or entity.

27 (b) Civil Penalty for Violations by Licensee. – In addition to any other punishment or
28 remedy under the law for any violation of this section, the Division may levy and collect a civil
29 penalty, in an amount not to exceed one thousand dollars (\$1,000) for each violation, against any
30 person who has obtained a license pursuant to this ~~section,~~ section, or is an applicant for a license
31 under this section, if it finds that the ~~licensee~~ person has violated any of the provisions of
32 G.S. 20-285 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by
33 the Division relating to the sale of vehicles, vehicle titling, or vehicle registration. If the Division
34 finds that a sales representative applicant has violated any of these provisions, the penalty shall
35 be assessed against the applicant unless the Division finds that a dealership owner, manager, or
36 officer had knowledge of the violation before the application was submitted to the Division.



1 (c) Civil Penalty for Violations by Person Without a License. – In addition to any other
 2 punishment or remedy under the law for any violation of this section, the Division may levy and
 3 collect a civil penalty, in an amount not to exceed five thousand dollars (\$5,000) for each
 4 violation, against any person who is required to obtain a license under this section and has not
 5 obtained the license, if it finds that the person has violated any of the provisions of G.S. 20-285
 6 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by the Division
 7 relating to the sale of vehicles, vehicle titling, or vehicle registration. It shall be an affirmative
 8 defense if a person subject to a penalty for not having a license required by this section promptly
 9 applies for and is issued the appropriate license. The investigative report of a violation must be
 10 considered in the issuance of any license. In issuing a license to a person acting in a specific
 11 licensed activity, the Division must issue the appropriate license for that activity."

12 **SECTION 1.2.(a)** G.S. 20-294 reads as rewritten:

13 "**§ 20-294. Grounds for denying, suspending, placing on probation, or revoking licenses.**

14 ~~The~~ In accordance with G.S. 20-295 and G.S. 20-296, the Division may deny, suspend, place
 15 on probation, or revoke a license issued under this Article for any one or more of the following
 16 grounds:

- 17 (1) ~~Making~~ Knowingly making a material misstatement in an application for a
 18 license.
- 19 (2) Willfully and intentionally failing to comply with this Article, Article 15 of
 20 this Chapter, or G.S. 20-52.1, 20-75, 20-79.1, 20-79.2, 20-108, 20-109,
 21 20-109.3, or a rule adopted by the Division under this Article. It shall be an
 22 affirmative defense, exclusive to the dealer licensee, if the violation is a result
 23 of fraud, theft, or embezzlement against the licensee. Responsible persons,
 24 including officers, directors, and sales representative licensees, may be
 25 charged individually if they actively and knowingly participated in the
 26 unlawful activity. This affirmative defense is waived if any violation charged
 27 creates an unrecoverable loss for a citizen or another licensed motor vehicle
 28 dealer of this State.
- 29 ...
- 30 (4) Willfully defrauding any retail or wholesale buyer, to the buyer's damage, or
 31 any other person in the conduct of the licensee's business.
- 32 ...
- 33 (6) Using unfair methods of competition or unfair or deceptive acts or
 34 ~~practices~~ practices that cause actual damages to the buyer.
- 35 ...
- 36 (9) Being convicted of an offense set forth under ~~G.S. 20-106,~~ G.S. 14-71.2,
 37 20-106.1, 20-107, or 20-112 while holding such a license or within five years
 38 next preceding the date of filing the application; or being convicted of a felony
 39 involving moral turpitude under the laws of this State, another state, or the
 40 United States. It shall be an affirmative defense, and will operate as a stay of
 41 this violation, if the person charged is determined to qualify and obtains
 42 expunction, certificate of relief, or pardon, or, if the violative conviction is
 43 vacated. If relief is granted, this violation is dismissed. If relief is denied, the
 44 stay is lifted.
- 45 ...
- 46 (11) Knowingly giving an incorrect certificate of title, or failing to give a certificate
 47 of title to a purchaser, a lienholder, or the Division, as appropriate, after a
 48 vehicle is sold. It shall be an affirmative defense, exclusive to the dealer
 49 licensee, if it is found the violation is a result of fraud, theft, or embezzlement
 50 against the licensee. Officers, directors, members, and sales representative
 51 licensees may be charged individually if they actively and knowingly

1 participated in the unlawful activity. This affirmative defense is waived if any
 2 violation charged creates an unrecoverable loss for a citizen or another
 3 licensed motor vehicle dealer of this State.

- 4 (12) ~~Making~~ Knowingly making a material misstatement in an application for a
 5 dealer license plate.

6"

7 **SECTION 1.2.(b)** G.S. 14-86.1(a) reads as rewritten:

8 "(a) All conveyances, including vehicles, watercraft or aircraft, used to unlawfully
 9 conceal, convey or transport property in violation of G.S. 14-71, 14-71.1, or ~~20-106,~~ 14-71.2 or
 10 used by any person in the commission of armed or common-law robbery, or used in violation of
 11 G.S. 14-72.7, or used by any person in the commission of any larceny when the value of the
 12 property taken is more than two thousand dollars (\$2,000) shall be subject to forfeiture as
 13 provided herein, except that:

14"

15 **SECTION 1.3.** G.S. 20-299 reads as rewritten:

16 "**§ 20-299. Acts of officers, directors, partners, salesmen and other representatives.**

17 (a) ~~If a licensee is a copartnership or a corporation, it shall be sufficient cause for the~~
 18 ~~denial, suspension or revocation of a license that any officer, director or partner of the~~
 19 ~~copartnership or corporation has committed any act or omitted any duty which would be cause~~
 20 ~~for refusing, suspending or revoking a license to such party as an individual. Each licensee shall~~
 21 ~~be responsible for the acts of any or all of his salesmen while acting as his agent. The Division~~
 22 may deny, suspend, place on probation, or revoke a license issued to a corporation, limited
 23 liability company, limited liability partnership, or any other business entity that is a licensee
 24 under this Article if more than fifty percent (50%) of the business entity ownership engaged in
 25 conduct prohibited by G.S. 20-294. A license issued to a business entity under this Article may
 26 also be revoked if any damages suffered due to a violation of this Article are not satisfied,
 27 including damages caused by a sales representative while acting as an agent of the business entity.
 28 An owner of a business entity that did not engage personally in a violation of G.S. 20-294 and
 29 did not knowingly omit any duty may not be penalized for the acts of a business entity found to
 30 have violated this section.

31"

32 33 **TRANSFER VEHICLE DEALER LICENSE AND SAFETY AND EMISSIONS** 34 **INSPECTION HEARINGS FROM DMV TO OAH**

35 **SECTION 2.1.** G.S. 150B-1(e)(8) reads as rewritten:

- 36 "(8) The Department of Transportation, except as provided in ~~G.S. 136-29~~
 37 G.S. 20-183.8G, 20-295, 20-296, and 136-29."

38 **SECTION 2.2.** G.S. 150B-2(3) reads as rewritten:

- 39 "(3) "License" means any certificate, permit or other evidence, by whatever name
 40 called, of a right or privilege to engage in any activity, ~~except including~~
 41 licenses issued under Article 3A and Article 12 of Chapter 20 of the General
 42 Statutes, but excluding all other licenses issued under Chapter 20 and Chapter
 43 20 of the General Statutes, licenses issued under Subchapter I of Chapter 105
 44 of the General Statutes, occupational licenses, and certifications of electronic
 45 poll books, ballot duplication systems, or voting systems under
 46 G.S. 163-165.7."

47 **SECTION 2.3.** G.S. 20-295(a) reads as rewritten:

48 "**§ 20-295. Action on application; grace period while application for license renewal is**
 49 **pending.**

- 50 (a) Division Action. – The Division shall either grant or deny an application for a license
 51 or license renewal within 30 days after receiving it. ~~Any applicant denied a license shall, upon~~

1 filing a written request within 30 days, be given a hearing at the time and place determined by
2 the Commissioner or a person designated by the Commissioner. A hearing shall be public and
3 shall be held with reasonable promptness. No later than 30 days after the Division denies an
4 application, an applicant may commence a contested case under Article 3 of Chapter 150B of the
5 General Statutes."

6 **SECTION 2.4.** G.S. 20-296 reads as rewritten:

7 "**§ 20-296. Notice and hearing upon ~~denial, license suspension, revocation, or placing on~~**
8 **probation, or refusal to renew license.**

9 No license shall be suspended, revoked, denied, placed on probation, or renewal thereof
10 refused, until a written notice of the complaint made has been furnished to the licensee against
11 whom the same is directed, and a hearing thereon has been had before the Commissioner, or a
12 person designated by him. At least 10 days' written notice of the time and place of such hearing
13 shall be given to the licensee by certified mail with return receipt requested to his last known
14 address as shown on his license or other record of information in possession of the Division. At
15 any such hearing, the licensee shall have the right to be heard personally or by counsel. After
16 hearing, the Division shall have power to suspend, revoke, place on probation, or refuse to renew
17 the license in question. Immediate notice of any such action shall be given to the licensee in
18 accordance with G.S. 1A 1, Rule 4(j) of the Rules of Civil Procedure. No license shall be
19 suspended, revoked, or placed on probation by the Division until the Division has notified the
20 licensee by certified mail of the proposed action and the Division and the licensee have
21 participated in informal settlement procedures under G.S. 150B-22(a). If the Division and the
22 licensee are unable to agree to a resolution, the Division may commence a contested case under
23 Article 3 of Chapter 150B of the General Statutes for the suspension, revocation, or placing on
24 probation of the license. Other interested parties shall be entitled to receive notice of, attend, and
25 participate in informal settlement procedures."

26 **SECTION 2.5.** G.S. 20-183.7A(d1) reads as rewritten:

27 "(d1) Multiple Violations in Separate Safety Inspections. – In the case of two or more
28 violations committed in separate safety inspections, considered at one time, the Division shall
29 consider each violation as a separate occurrence and shall impose a separate penalty for each
30 violation as a first, second, or third or subsequent violation as found in the applicable penalty
31 schedule. The Division may in its discretion direct that any suspensions for the first, second, or
32 third or subsequent violations run concurrently. If the Division does not direct that the
33 suspensions run concurrently, they shall run consecutively. Nothing in this section shall prohibit
34 or limit ~~a reviewing court's ability~~ the ability of a reviewing administrative law judge or court
35 to affirm, reverse, remand, or modify the Division's decisions, decisions involving penalties,
36 suspensions, or revocations, whether discretionary or otherwise, pursuant to Article 3 and Article
37 4 of Chapter 150B of the General Statutes."

38 **SECTION 2.6.** G.S. 20-183.8B(c2) reads as rewritten:

39 "(c2) Multiple Violations in Separate Emissions Inspections. – In the case of two or more
40 violations committed in separate emissions inspections, considered at one time, the Division shall
41 consider each violation as a separate occurrence and shall impose a separate penalty for each
42 violation as a first, second, or third or subsequent violation as found in the applicable penalty
43 schedule. The Division may in its discretion direct that any suspensions for the first, second, or
44 third or subsequent violations run concurrently. If the Division does not direct that the
45 suspensions run concurrently, they shall run consecutively. Nothing in this section shall prohibit
46 or limit ~~a reviewing court's ability~~ the ability of a reviewing administrative law judge or court
47 to affirm, reverse, remand, or modify the Division's decisions, decisions involving penalties,
48 suspensions, or revocations, whether discretionary or otherwise, pursuant to Article 3 and Article
49 4 of Chapter 150B of the General Statutes."

50 **SECTION 2.7.** G.S. 20-183.8G reads as rewritten:

51 "**§ 20-183.8G. Administrative and judicial review.**

1 (a) Right to Hearing. – A person who applies for a license or registration under this Part
2 or who has a license or registration issued under this Part has the right to ~~a hearing~~ commence a
3 contested case under Article 3 of Chapter 150B of the General Statutes when any of the following
4 occurs:

- 5 (1) The Division denies the person's application for a license or registration.
- 6 (2) The Division delivers to the person a written statement of charges of a
7 violation that could result in the suspension or revocation of the person's
8 license.
- 9 (3) The Division summarily suspends or revokes the person's license following
10 review and authorization of the proposed adverse action by a judge.
- 11 (4) The Division assesses a civil penalty against the person.
- 12 (5) The Division issues a warning letter to the person.
- 13 (6) The Division cancels the person's registration.

14 (b) Hearing After Statement of Charges. – When a license holder receives a statement of
15 charges of a violation that could result in the suspension or revocation of the person's license, the
16 person ~~can obtain a hearing by making a request for a hearing. The person must make the request~~
17 ~~to the Division within 10 days after receiving the statement of the charges. A person who does~~
18 ~~not request a hearing within this time limit waives the right to a hearing.~~ may, within 30 days after
19 receiving the statement of charges, commence a contested case under Article 3 of Chapter 150B
20 of the General Statutes. Suspension or revocation of the license is stayed until a final decision is
21 made by an administrative law judge.

22 ~~The Division must hold a hearing requested under this subsection within 30 days after~~
23 ~~receiving the request, unless the matter is continued for good cause. The hearing must be held at~~
24 ~~the location designated by the Division. Suspension or revocation of the license is stayed until a~~
25 ~~decision is made following the hearing.~~

26 If a person does not ~~request a hearing~~ commence an administrative proceeding within the
27 time allowed for making the request, the proposed suspension or revocation becomes effective
28 the day after the time for making the request ends. ~~If a person requests a hearing but does not~~
29 ~~attend the hearing, the proposed suspension or revocation becomes effective the day after the~~
30 ~~date set for the hearing.~~

31 (c) Hearing After Summary Action. – When the Division summarily suspends a license
32 issued under this Part after judicial review and authorization of the proposed action, the person
33 whose license ~~was suspended or revoked may obtain a hearing by filing with the Division a~~
34 ~~written request for a hearing. The request must be filed within 10 days after the person was~~
35 ~~notified of the summary action. The Division must hold a hearing requested under this subsection~~
36 ~~within 14 days after receiving the request.~~ is suspended or revoked may, within 30 days after
37 receiving notice of the summary action, commence a contested case under Article 3 of Chapter
38 150B of the General Statutes.

39 (d) All Other Hearings. – When this section gives a person the right to ~~a hearing~~
40 commence a contested case under Article 3 of Chapter 150B of the General Statutes and
41 subsection (b) or (c) of this section does not apply to the hearing, ~~the person may obtain a hearing~~
42 ~~by filing with the Division a written request for a hearing. The request must be filed~~ apply, the
43 contested case must be commenced within ~~40~~ 30 days after the person receives written notice of
44 the action for which a hearing is requested. ~~The Division must hold a hearing within 90 days after~~
45 ~~the Division receives the request, unless the matter is continued for good cause.~~

46 (e) Review by Commissioner. ~~The Commissioner may conduct a hearing required~~
47 ~~under this section or may designate a person to conduct the hearing. When a person designated~~
48 ~~by the Commissioner holds a hearing and makes a decision, the person who requested the hearing~~
49 ~~has the right to request the Commissioner to review the decision. The procedure set by the~~
50 ~~Division governs the review by the Commissioner of a decision made by a person designated by~~
51 ~~the Commissioner.~~

1 (f) Decision. – Upon the Commissioner's review of a decision made after a hearing on
 2 the imposition of a monetary penalty against a motorist for an emissions violation or on a Type
 3 I, II, or III violation by a license holder, the Commissioner must uphold any monetary penalty,
 4 license suspension, license revocation, or warning required by G.S. 20-183.7A, G.S. 20-183.8A
 5 or G.S. 20-183.8B, respectively, if the decision is based on evidence presented at the hearing that
 6 supports the hearing officer's determination that the motorist or license holder committed the act
 7 for which the monetary penalty, license suspension, license revocation, or warning was imposed.
 8 Pursuant to the authority under G.S. 20-183.7A(e) and G.S. 20-183.8B(e), the Commissioner The
 9 administrative law judge may order a suspension for a first occurrence Type I violation of a
 10 station to be stayed upon reasonable compliance terms to be determined by the Commissioner.
 11 Pursuant to the authority under G.S. 20-183.7A(d1) and G.S. 183.8B(e2), the Commissioner
 12 administrative law judge. The administrative law judge may order the suspensions against a
 13 license holder to run consecutively or concurrently. The Commissioner may uphold, dismiss, or
 14 modify a decision made after a hearing on any other action. administrative law judge may affirm,
 15 reverse, remand, or modify a Division decision after a contested case hearing on any other action.
 16 Notwithstanding G.S. 150B-48, suspension or revocation of the license is automatically stayed
 17 for 30 days after the person is served with a written copy of the decision.

18 (g) Judicial Review. – Article 4 of Chapter 150B of the General Statutes governs judicial
 19 review of an administrative decision made under this section."
 20

21 **LENDERS MAY OBTAIN COLOR IMAGE OF BORROWER'S DRIVERS LICENSE**

22 **SECTION 3.** G.S. 20-30(6) reads as rewritten:

23 "(6) To make a color photocopy or otherwise make a color reproduction of a
 24 drivers license, learner's permit, or special identification eard ~~which has been~~
 25 ~~color photocopied or otherwise reproduced in color,~~ card, unless such color
 26 photocopy or other color reproduction was authorized by the Commissioner
 27 or is made to comply with G.S. 163-230.2. It shall be lawful to make a black
 28 and white photocopy of a drivers license, learner's permit, or special
 29 identification card or otherwise make a black and white reproduction of a
 30 drivers license, learner's permit, or special identification card. This
 31 subdivision does not apply to a lender that is licensed or otherwise authorized
 32 to engage in the lending business in this State, or to a licensed motor vehicle
 33 dealer, creating, storing, or receiving, in the ordinary course of business, a
 34 color image of a drivers license, learners permit, or special identification card
 35 of a borrower or loan applicant."
 36

37 **MANDATORY REPLACEMENT OF DEALER PLATES**

38 **SECTION 4.** G.S. 20-79 is amended by adding a new subsection to read:

39 "(c1) Dealer Plate Mandatory Replacement. – Notwithstanding G.S. 20-63.1, registration
 40 plates issued under this section shall be replaced every three years."
 41

42 **PRINT LICENSE RENEWAL GRACE PERIOD ON DEALER'S BLUE LICENSE**

43 **SECTION 5.** G.S. 20-295(b) reads as rewritten:

44 "(b) Pending License Renewal Grace Period. – When an application for license renewal
 45 has been timely submitted prior to expiration of the license, the license shall remain valid for up
 46 to 30 days after the expiration date until the Division grants or denies the application. The
 47 Division shall (i) ensure that any database maintained by the Division that indicates the status of
 48 a license issued under this Article reflects that the license continues to be valid during this
 49 period. period and (ii) send a temporary license to the applicant for display while the Division
 50 reviews the application."
 51

MANUFACTURED HOMES

SECTION 6.1. G.S. 20-109.2 reads as rewritten:

"§ 20-109.2. Surrender of title to manufactured home.

...

(d) Application for Title After Cancellation. – If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, verification of the identity of the current owner of the real property upon which the manufactured home was located, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. ~~The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent.~~ Upon receipt of this information, together with a title application and required fee, the Division shall issue a new title for the manufactured home in the name of the current owner of the real property upon which the manufactured home was located.

...

(f) No Right of Action. – A person damaged by the cancellation of a certificate of title pursuant to subsection (a1) of this section does not have a right of action against the ~~Division~~Division or a commission contractor of the Division."

SECTION 6.2. G.S. 20-58.3A(g) reads as rewritten:

"(g) The ~~Division~~Division, or a commission contractor of the Division, shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the renewal of the perfection of a security interest or the failure to acknowledge or give effect to an expired perfection of a security interest on a certificate of title for a manufactured home pursuant to this section if the claim is based on reliance by the ~~Division~~Division, or a commission contractor of the Division, on any application for renewal submitted to the ~~Division~~Division, or a commission contractor of the Division, by a third party pursuant to this section or based on the automatic expiration of a perfection of a security interest pursuant to this section."

SECTION 6.3. G.S. 20-58.4 reads as rewritten:

"§ 20-58.4. Release of security interest.

...

(c) An owner, upon securing the release of any security interest in a vehicle shown upon the certificate of title issued therefor, may exhibit the documents evidencing such release, signed by the person or persons making such release, and the certificate of title to the ~~Division~~Division, or a commission contractor of the Division, which shall, when satisfied as to the genuineness ~~and regularity~~ of the release, issue to the owner either a new certificate of title in proper form or an endorsement or rider attached thereto showing the release of the security interest.

(d) If an owner exhibits documents evidencing the release of a security interest as provided in subsection (c) of this section but is unable to furnish the certificate of title to the ~~Division~~Division, or a commission contractor of the Division, because it is in possession of a prior secured party, the Division, when satisfied as to the genuineness ~~and regularity~~ of the release, shall procure the certificate of title from the person in possession thereof for the sole purpose of noting thereon the release of the subsequent security interest, following which the Division shall return the certificate of title to the person from whom it was obtained and notify the owner that the release has been noted on the certificate of title.

...

(e1) If the vehicle is a manufactured home, the owner may proceed in accordance with subsection (e) of this section or may, in the alternative, provide the Division with a sworn affidavit by the owner stating that the debt has been satisfied and that either:

- 1 (1) After diligent inquiry, the owner has been unable to determine the identity or
2 the current location of the secured creditor or its successor in interest; or
3 (2) The secured creditor has not responded within 30 days to a written request
4 from the owner to release the secured creditor's security interest.

5 For purposes of this subsection, the term "owner" shall mean any of the following: (i) the
6 owner of the manufactured home; (ii) the owner of real property on which the manufactured
7 home is affixed; or (iii) a title insurance company as insurer of an insured owner of real property
8 on which the manufactured home is affixed.

9 (e2) The Division ~~may~~shall treat either of the methods employed by the owner pursuant
10 to subsection (e) or subsection (e1) of this section as a proper release for purposes of this section
11 when satisfied as to the genuineness, truth and sufficiency thereof. ~~Prior to cancellation of a~~
12 ~~security interest under the provisions of this subsection, at least 15 days' notice of the pendency~~
13 ~~thereof shall be given to the secured party at his last known address by the Division by registered~~
14 ~~letter. The Division shall not cancel a security interest pursuant to this subsection if, within 15~~
15 ~~days after the Division gives notice, the secured party responds to the Division indicating that~~
16 ~~the security interest remains in effect, of the evidence. Before cancelling a security interest under~~
17 this section, the Division, or a commission contractor of the Division, shall send notice to the last
18 known address of the secured party. If the secured party files an objection within 15 days after
19 notice was sent, the Division shall not cancel the security interest.

20 (f) ~~The Division~~Division, or a commission contractor of the Division, shall not be
21 subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the release
22 of the perfection of a security interest on a certificate of title for a manufactured home pursuant
23 to this section if the claim is based on reliance by the ~~Division~~Division, or a commission
24 contractor of the Division, on any release, affidavit, notation of the certificate of title, or
25 documents evidencing the release or satisfaction of a security interest submitted to the ~~Division~~
26 Division, or a commission contractor of the Division, by a third party pursuant to this section."

27 **SECTION 6.4.** The Division of Motor Vehicles shall create a form for use by
28 employees, agents, and commission contractors of the Division in the cancellation, release, or
29 renewal of a security interest in a manufactured home and the surrender of title to a manufactured
30 home. On or before December 1, 2021, the Division shall publish this form on its website and
31 otherwise make it available to the public.

32 33 **APPLICATION FOR NOTATION OF SECURITY INTEREST BY LENDER** 34 **MODIFICATIONS**

35 **SECTION 7.(a)** G.S. 20-58(a)(2) reads as rewritten:

- 36 "(2) If the vehicle is registered in this State, the application for notation of a
37 security interest shall be in the form prescribed by the Division, signed by the
38 debtor, and contain the date of application of each security interest, and name
39 and address of the secured party from whom information concerning the
40 security interest may be obtained. The application may be signed by electronic
41 signature by the debtor without notarization, provided the application is
42 submitted by a licensed or regulated lender in this State having a lienholder
43 identification number issued by the Division. The application must be
44 accompanied by the existing certificate of title unless in the possession of a
45 prior secured party or in the event the manufacturer's statement of origin or
46 existing certificate of title (i) was not delivered to the dealer or (ii) was lost or
47 misplaced on the date the dealer sells or transfers the motor vehicle. If there
48 is an existing certificate of title issued by this or any other jurisdiction in the
49 possession of a prior secured party, the application for notation of the security
50 interest shall in addition contain the name and address of such prior secured
51 party. An application for notation of a security interest may be signed by the

1 secured party instead of the debtor when the application is accompanied by
2 documentary evidence of the applicant's security interest in that motor vehicle
3 signed by the debtor and by affidavit of the applicant stating the reason the
4 debtor did not sign the application. An application for a notation of a security
5 interest submitted to the Division signed by the secured party instead of the
6 debtor does not require documentary evidence of the applicant's security
7 interest in that motor vehicle signed by the debtor, provided the application is
8 submitted by a licensed or regulated lender in this State having a lienholder
9 identification number issued by the Division. In the event the certificate
10 cannot be obtained for recordation of the security interest, when title remains
11 in the name of the debtor, the Division shall cancel the certificate and issue a
12 new certificate of title listing all the respective security interests. Neither the
13 Division nor its commission contractors shall be liable for any cause of action
14 arising from a notation of security interest placed on a certificate of title
15 pursuant to applications submitted to the Division fraudulently or erroneously
16 by a licensed or regulated lender in this State having a lienholder identification
17 number issued by the Division. Any entity offering an electronic signature
18 process for applications submitted pursuant to this subdivision assumes all
19 responsibility and liability for the accuracy of the signature. The Division and
20 its commission contractors shall be held harmless from any liability to a claim
21 arising from applications submitted with an inaccurate electronic signature
22 pursuant to this subdivision."

23 **SECTION 7.(b)** This section becomes effective October 1, 2021, and applies to
24 applications for notation of security interests submitted to the Division of Motor Vehicles on or
25 after that date.

26

27 **ELECTRONIC LIEN SYSTEM CONTRACTORS MUST HAVE EXPERIENCE IN** 28 **ELECTRONIC LIENS**

29 **SECTION 8.** G.S. 20-58.4A(d) reads as rewritten:

30 "(d) Qualified vendors and service providers shall have experience in directly providing
31 electronic lien and title solutions to State motor vehicle departments or agencies."
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33 **EFFECTIVE DATE**

34 **SECTION 9.** Except as otherwise provided, this act becomes effective October 1,
35 2021.