Chapter Trans 148

ELECTRONIC RECORDING AND RELEASE OF LIENS BY NON-INDIVIDUAL CREDITORS

Trans 148.01 Purpose and scope. This chapter interprets ss. 342.19 (2) (a), 342.20 (2) and (3), 342.22 (1) and (2), and 342.245, Stats., which require a non-individual secured party to use an electronic process prescribed by the department whenever filing a security interest statement or lien release with the department and to pay fees for such use, unless exempted by the department by rule.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.

Trans 148.02 Definitions. The words and phrases defined in s. 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Automated processing partnership system" or "APPS" means the program established by the DMV, in which DMV contracts with agents and vendors to provide vehicle registration and titling services. Chapter Trans 156 governs administration of the APPS program.

(2) "Certificate of title" or "title" means the certificate of title for a vehicle as required in ch. 342, Stats.

(3) "Department" means the Wisconsin department of transportation.

(4) "DMV" means the Wisconsin department of transportation division of motor vehicles.

(5) "Exempt" means that a non-individual secured party is not required or not authorized to file and release security interest statements electronically.

(6) "Motor vehicle dealer" or "dealer" means a motor vehicle dealer as defined in s. 218.0101 (23), Stats.

(7) "Vendor" means a person, business or organization that contracts with the DMV to provide a host computer system by which agents may obtain access to specified information services of the DMV in order to process registration and title transactions or file security interest statements electronically.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.

Trans 148.03 Requirement to file and release security interest statement electronically. (1) Unless exempt under s. Trans 148.06, a non-individual secured party is required to file all its security interest statements and release all its security interests on Wisconsin vehicle titles electronically as an update to the vehicle title record in the DMV database.

(2) A non-individual secured party that is releasing security interests and filing security interest statements on a vehicle that is not being transferred shall use either the e-MV Agent Internet-based web application established by the department or the vendor provided interface under the APPS program, as authorized under s. Trans 148.04.

(3) A secured party who is processing an application for a certificate of title as an agent in the APPS program under ch.

Trans 156 may file the security interest statement as part of title processing, as authorized under s. Trans 148.04. In the event that a security interest is part of a certificate of title application that a motor vehicle dealer is processing under ch. Trans 141 or 156, or that the DMV is processing, the secured party shall release the security interest electronically.

(4) A non-individual secured party using DMV's e-MV Agent Internet-based web application shall apply to the DMV on the DMV application form and shall comply with all applicable requirements, including those related to persons who have access to information subject to the federal driver privacy protection act, 18 USC 2721-2725.

Note: The DMV e-MV Agent Application Form is available on-line at the DOT web site www.dot.wisconsin.gov/business/dealers/emvagent.

(5) A non-individual secured party that has not previously filed a security interest statement on a Wisconsin title shall apply to the department for a secured party number and shall apply to file security interest statements electronically. The secured party shall begin processing security interest statements electronically within 30 days after the effective date of the DMV-assigned secured party number.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.

Trans 148.04 Secured party participation in the APPS program. (1) Any secured party may file its security interest statement electronically as part of processing a certificate of title, and may release its security interests or file security interest statement for a vehicle that is not being transferred, by contracting with the DMV as an agent in the APPS program under s. 341.21 (2), Stats. A secured party who participates in the APPS program shall, as a condition of continued participation in the APPS program, comply with all requirements and procedures under ch. Trans 156 and with limitations on use of personal identifiers and confidential information under the federal Driver's Privacy Protection Act, 18 USC 2721-2725.

(2) A secured party participating in the APPS program may charge a customer for title processing, including security interest statement filing and release of security interest, any amount not more than the maximum fees specified in the contract under ch. Trans 156.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.

Trans 148.05 Termination and nonrenewal of APPS secured party contracts. A secured party whose participation in the APPS program is discontinued, by the department or by the secured party, shall continue to file and release security interest statements electronically using the e-MV Agent Internet-based web application offered by the department, and shall comply with all requirements of this chapter.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.

Trans 148.06 Exemptions from requirement to file

security interest statement electronically. (1) EXEMPT SECURED PARTIES NOT REQUIRED TO FILE OR RELEASE SECURITY INTEREST STATEMENTS ELECTRONICALLY. (a) The department shall grant an exemption if the secured party filed 48 or fewer security interest statements with the department during the previous calendar year. A new secured party is not eligible for an exemption during the first calendar year.

(b) If a secured party was exempt under this subsection during a calendar year and the department determines that the secured party is not eligible for an exemption for the succeeding year, the department may cancel the secured party's exemption for that succeeding year by written notice. The notice shall require the secured party to file or release security interest statements electronically not less than 30 calendar days after the date the department sends the notice, and the department shall charge the fee and surcharge under s. Trans 148.07 (2) (c) 1. after the date specified in the cancellation notice.

(2) EXEMPT SECURED PARTIES NOT AUTHORIZED TO FILE AND RELEASE SECURITY INTEREST STATEMENTS ELECTRONICALLY. (a) The department shall deny a secured party the authority to file and release security interest statements electronically for any of the following reasons:

1. DMV has reasonable cause to conclude that the accuracy or timeliness of the security interest filings or releases performed by the secured party is insufficient, including any of the following:

a. The secured party has completed electronic processing of security interest statement filing before the secured party has obtained the original title from the vehicle owner or before the secured party and the vehicle owner have finalized their security interest or loan transaction.

b. The secured party has not released security interests in vehicles within statutorily mandated dates.

2. The secured party has failed or refused to provide DMV with any documents, fees, or information required by DMV to administer this chapter or ch. 342, Stats.

3. DMV has reasonable cause to conclude that the secured party is not in compliance with any provision of written policies and procedures regarding electronic filing of security interest statements, including non-payment of DMV fees.

(b) The department's denial shall remain in effect until the department reauthorizes the secured party to file and release security interest statements electronically.

(3) EXEMPT SECURITY INTEREST FILING TRANSACTIONS. (a) A security interest statement is not required to be filed electronically if the security interest statement is any of the following:

1. Filed as part of a certificate of title transaction for some purpose other than solely filing a security interest statement.

2. Part of a transaction that is prohibited from successful electronic transaction because of an express limitation on the vehicle title or customer record, or on the e-MV Agent internet-based web application or APPS.

(b) The department may not charge a secured party a transaction processing fee for filing a security interest statement exempted by this subsection. The secured party shall release its security interest in the vehicle electronically.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.

Trans 148.07   Fees. (1) FEES PAID TO SECURED PARTIES BY CONSUMERS. A secured party may charge the vehicle owner the security interest filing and release fee under s. 342.14 (2), Stats. A secured party may charge the vehicle owner a fee to cover transaction processing fees the secured party is required to pay to the department to the extent allowed in this section.

(2) FEES PAID BY SECURED PARTIES TO THE DEPARTMENT. (a) Any secured party who is not required to file security interest statements electronically under s. Trans 148.06 (1) (a) shall pay the department a fee of $5.00 for each security interest statement filing transaction that the department processes on behalf of the secured party. If an exempt secured party who is not required to file security interest statements electronically under s. Trans 148.06 (1) (a) submits to DMV an application to be processed by DMV through a customer service center, the secured party shall pay the department the $5.00 fee per filing transaction, in addition to the counter service fee and any other required fees. The secured party may charge the vehicle owner a fee to cover the fee that the secured party is required to pay the department.

(b) Any secured party who is not authorized to file security interest statements electronically under s. Trans 148.06 (1) (b) shall pay the department a fee for each security interest statement filing transaction that the department processes on behalf of the secured party. The fee consists of all of the following:

1. A fee of $5.00 per transaction to process the transaction. The secured party may charge the vehicle owner a fee not to exceed $5.00.

2. A surcharge of $20.00 per transaction. The secured party may not charge this surcharge to the vehicle owner.

(c) Any secured party who is required to but fails to file security interest statements electronically as required under s. Trans 148.03 shall pay the department a fee for each security interest statement filing transaction that the department processes on behalf of the secured party. The fee consists of the following:

1. A fee of $5.00 per transaction to process the transaction. The secured party may charge the vehicle owner a fee not to exceed $5.00.

2. A surcharge of $20.00 per transaction. The secured party may not charge this surcharge to the vehicle owner.

(d) In addition to the fee and the surcharge that a secured party must pay to DMV under par. (b) or (c), the department may notify the department of financial institutions to consider disciplinary actions against the secured party. If a secured party described in par. (b) or (c) submits to DMV an application to be processed by DMV through a customer service center, the secured party shall pay the department the $5.00 transaction fee and the $20.00 surcharge, in addition to the counter service fee and any other required fees.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.

Trans 148.08   Records. (1) After submitting an electronic security interest statement filing, a secured party shall retain for 60 days and then promptly destroy the certificate of title that the vehicle owner provides to the secured party, as provided in s. 342.245 (2), Stats.

(2) A secured party shall ensure that sufficient funds are in its financial account with the department, since the department or vendor system shall debit the account established for the secured party for all fees owed to the department for a transaction.

(3) The electronic record in the DMV database satisfies the requirement in s. 342.20 (3), Stats., that the department notify the secured party of notation of security interest.

History: CR 09-113: cr. Register May 2010 No. 653, eff. 6-1-10.