

May 12, 2023

Senate President Matt Huffman & Senate Finance Chair Matt Dolan
1 Capitol Square
Columbus, OH 43215

Re: Repeal of Ohio Revised Code Section 4505.131

Dear President Huffman and Chairman Dolan:

I write on behalf of the American Financial Services Association (“AFSA”)¹ to request your support for the repeal of Section 4505.131 of the Ohio Revised Code, which was only recently enacted via House Bill 23, and changed the requirements for providing a vehicle title to a consumer once they’ve paid off the loan. While this section may have been well-intentioned, it undermines the state’s shift toward electronic titling, and the practical implementation will create significant compliance challenges for lenders in the state and result in a more complicated and lengthier process for consumers waiting on their vehicle title after paying off their loan.

AFSA represents financial institutions across the vehicle finance industry that will be negatively affected by Section 4505.131 when the changes take effect next month. Our members include large national banks, smaller regional banks, captive finance companies (the financial institution arm of a vehicle manufacturer), as well as other non-bank, non-captive finance companies. AFSA members provide both direct financing—a loan provided directly to a consumer looking to buy a vehicle—and indirect financing—financing facilitated by an auto dealer at the time of the sale—and serve the entire credit spectrum. Our members work through the vehicle titling process administered by the Ohio Bureau of Motor Vehicles (BMV) to record their security interest in the vehicle for the term of the contract and subsequently release the lien and provide a clear title to the borrower upon payoff. Some companies currently participate in the Ohio BMV’s Electronic Lien and Title (ELT) system, which provides for an electronic lien and title, while others continue to receive and manage physical certificates of title.

As added by HB 23, Section 4505.131 requires a secured party (i.e. a lender) to send a form to a consumer once they have paid off their loan asking whether the consumer wants a physical certificate of an electronic title. This change is problematic for several reasons. First, not every lien holder holds electronic titles, but the law is vague as to the requirements in those situations. More importantly, for companies that do participate in the ELT system and hold electronic titles, the current process for converting an electronic title to a physical certificate of title for purposes of complying with Section 4505.131 would be inefficient and costly. To provide the consumer with a physical certificate of title under Section 4505.131, the secured party must convert the existing electronically held title into a

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

physical certificate of title with the security interest still in-tact, as the ELT Program does not provide a mechanism for the lien holder to release their lien and have a clear physical certificate of title delivered to the purchaser. A \$15.00 title application fee will apply to every ELT converted to a physical certificate of title. Once the request for the physical certificate of title has been processed, the County Clerk will print and mail the physical certificate to the lien holder (or its vehicle title administration service provider). The physical certificate of title will then be mailed to the lien holder by the appropriate County Clerk's office, and once received by the lien holder it will be processed as part of its standard intake process and temporarily stored until it is eligible to be retrieved for release. The lien holder will then need to physically execute the release of lien on the face of the title and mail the physical certificate of title to the purchaser. The manual processing of the physical certificate of title and added steps will add days to the lender's processing time, delaying the receipt of the released title to the consumer, who is now expecting the physical certificate of title. While the purchaser isn't required to take the released title to the BMV for a lien free/clear title, the purchaser would only be able to do so by applying for a new physical certificate of title for \$15.00. No process exists today for going directly from an electronic title with a lien to a clear paper title. Because the new law prohibits charging a consumer a fee when they choose a paper title, these costs will unfortunately be spread out among all Ohio borrowers, by necessity, in the form of higher borrowing costs statewide.

While certainly not intended, Section 4505.131 disadvantages ELT processing over paper title processing as Section 4505.131 creates new costly obligations for lenders who have elected to process their titles electronically instead of paper. Lenders processing physical certificates of title will not be required to send the consumer the letter required in subsection A, as the title already exists in a physical format. Additionally, the conversion of an ELT record to a physical certificate of title for the purpose of releasing the lien defeats the entire purpose of ELT processing, as the electronic release of lien can no longer be performed. All the benefits of ELT processing are negated by the conversion of the ELT to the paper title. To ease compliance with Section 4505.131, existing ELT participants may choose to convert their existing ELT portfolio to physical certificates of title to avoid being subject to the new obligations created by Section 4505.131. These new obligations will also likely deter additional lienholders from participating in the Ohio BMV's ELT Program, jeopardizing the state's shift to digital titling.

We recognize it was not the legislature's intent to create these compliance challenges for vehicle finance companies or their consumers, but given the significant issues outlined above, we respectfully urge you to support repeal of Section 4505.131. Thank you for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at (202) 469-3181 or mkownacki@afsamail.org.

Sincerely,



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