

April 15, 2025

Ms. Rebecca Wood, Deputy Commissioner for Policy, Safety & Driver Licensing
New York State Department of Motor Vehicles
6 Empire State Plaza
Albany, NY 12228

Re: New York DMV Regulation 78.25(b) – Proof of Ownership Requirements

Dear Ms. Wood,

On behalf of the American Financial Services Association (AFSA), we are writing to express our concerns regarding the New York Department of Motor Vehicles' (DMV) anticipated changes to its enforcement of Regulation 78.25(b) to require that original vehicle titles be retained at dealerships, including titles to vehicles pledged as collateral for floorplan financing. While we understand the DMV's intent, this new requirement introduces significant financial risks and operational obstacles for floorplan lenders and the broader automotive finance industry.

Floorplan financing is a critical process that enables dealerships to maintain inventory by providing funding that is secured by the vehicles themselves. The original titles to financed vehicles serve as additional collateral for floorplan lenders. Requiring dealerships to retain these titles threatens floorplan lenders' security interests, directly contradicting established contractual agreements and protections provided under the Uniform Commercial Code (UCC). The DMV's new policy would significantly increase creditor losses in cases of dealer fraud, sales out of trust, and business closures, ultimately destabilizing an essential financing model that dealerships have come to rely on.

Additionally, requiring dealerships to hold original titles introduces heightened risks of consumer and commercial fraud. Floorplan lenders' common practice of holding the titles to floorplanned dealer inventory serves as a crucial safeguard against bad actors who might otherwise attempt to fraudulently procure multiple loans from separate lenders, with each loan being secured by the same vehicle. The practice of floorplan lenders holding titles for floorplanned inventory likewise helps to minimize the risk of unscrupulous dealers selling collateral out of trust without their floorplan lenders' knowledge. Requiring dealerships to

hold all original certificates of title, floorplanned or not, undermines these protections and increases exposure to financial loss not only to the original secured lender, but potentially to multiple additional creditors as well. Finally, changing the current practice would extend the time a bad actor could conceal his or her nefarious activities while continuing to defraud consumers, floorplan lenders, and other consumer and commercial lenders through pyramid type schemes.

Our members have long-established processes that ensure bona fide purchasers can obtain titles upon completing a vehicle purchase by providing simple documentation already in their possession. These existing procedures effectively balance the needs of consumers, dealerships, and lenders without imposing undue risks on any party. Rather than enforcing a blanket requirement that disrupts these well-functioning industry practices, we encourage the DMV to consider alternative solutions that preserve financial security while addressing consumer concerns.

Furthermore, for dealers who currently are allowed by their floorplan lenders to hold the titles and Manufacturer's Statements of Origin (MSOs), the DMV's new policy would eliminate a critical tool available to them in default or near-default situations. In these situations, dealers may offer the titles and MSOs as collateral in order to retain their floorplan. Without this crucial flexibility during financial distress, these dealers would be at greater risk of immediate loss of their floorplan, which could lead to the closure of the dealership.

Finally, it's our understanding that a primary driver of the requirement that original titles be stored onsite at New York dealerships for inspection is the lack DMV staff bandwidth to address the current volume of consumer title complaints. In this case, we do not believe the solution will ameliorate the problem of voluminous consumer complaints. Because this would represent a shift from streamlined lienholder title storage to an endless array of individual dealer filing and storage systems—including potentially misplacing titles in file cabinets and desks—the volume of consumer complaints may increase instead of decrease.

AFSA urges the DMV to reconsider its proposed change to the enforcement of Regulation 78.25(b) and engage with industry stakeholders to develop an approach that ensures consumer protection without compromising financial stability. We welcome the

opportunity to discuss this matter further and collaborate on a solution that benefits all parties involved.

Thank you for your time and consideration of our concerns. If we may provide any additional information, or if you're open to further discussion, please do not hesitate to contact me dfagre@afsamail.org or my colleague Elora Rayhan at erayhan@afsamail.org // (805) 501-8873 at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Danielle Fagre Arlowe', is written in a cursive style.

Danielle Fagre Arlowe
Senior Vice President
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cc:

Chris Ayers, New York State Department of Motor Vehicles
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Jim McGill, New York State Department of Motor Vehicles
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