



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AN EMERGENCY RULE

AGENCY: Motor Vehicles TITLE-SERIES: 91-03

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: Motor Vehicle Titling

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W. Va. Code §§11-15-3c, 17A-2-9, 17A-3-14i, and 17A-4-11.

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The purpose rule is to establish the operating procedures for a national title clearinghouse using the WV OMV title system in compliance with HB2506 (2023). This emergency rule will allow the project to move forward while the legislative rule is going through the rule making process.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The purpose of this bill is to establish a national title clearinghouse using the WV OMV title system. The Division estimates it will need 10 additional employees in the first year (FY2024) of implementation. Salary and benefits for these employees will total approximately \$621,544. Current expenses for the first year of implementation will consist of office furniture, equipment and supplies and will be approximately \$67,000. The agency estimates the number of first year transactions will be 250,000. If the agency sets a \$15 transaction fee it will generate total first year revenue of \$3,750,000 (\$15 X 250,000). Upon full implementation the agency expects to have a staff of 30 employees working on the project with a total salary and benefits of approximately \$1,742,750. Current expenses for rent of \$45,450, utilities of \$9,600, and office supplies of \$12,000 will be required upon full deployment. For a total annual current expense of \$67,050. The agency estimates the yearly transactions upon full deployment to be 6,000,000. This transaction level will generate approximately \$90,000,000 (6,000,000 X \$15).

B. ECONOMIC INPACT ON SPECIAL REVENUE ACCOUNTS:

See Above.

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

See Above.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost		688,544	1,809,800
Personal Services		621,544	1,742,750
Current Expenses		67,000	67,050
Repairs and Alterations		67,000	
Assets			
Other			
2. Estimated Total Revenues		3,750,000	90,000,000

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

FY 2024 Personnel TRANSPORTATION DIVISION MANAGER \$165,000 TRANSPORTATION OMV UNIT MANAGER \$50,000 TRANSPORTATION OMV SPECIALIST LEAD \$42,000 TRANSPORTATION OMV SPECIALIST \$259,000 Sub-Total \$416,000 Annual Increment \$6,600 Total Salaries and Increment \$422,600 Benefits \$205,544 Total Salary and Benefits \$621,544 Current Expense Office furniture \$36,000 Office equipment \$27,000 Office supplies \$4,000 Total Current Expense \$67,000 Total Cost \$688,544 Revenue Estimate Estimated Transactions 250,000 Transaction Fee \$15 Revenue \$3,750,000 Full Deployment Personnel TRANSPORTATION DIVISION MANAGER 1 \$65,000 TRANSPORTATION OMV UNIT MANAGER \$50,000 TRANSPORTATION OMV SPECIALIST LEAD \$126,000 TRANSPORTATION OMV SPECIALIST \$925,000 Sub-Total \$1,166,000 Annual Increment \$19,800 Total Salaries and Increment \$1,185,800 Benefits \$576,750 Total Salary and Benefits \$1,742,750 Current Expense Rent \$45,450 Utilities \$9,600 Office supplies \$12,000 Total Current Expense \$67,050 Total Cost \$1,809,800 Revenue Estimate Estimated Transactions \$6,000,000 Transaction Fee \$15 Revenue \$90,000,000

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jennifer A Rutherford--By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 91
LEGISLATIVE RULE
DEPARTMENT OF MOTOR VEHICLES

SERIES 3
MOTOR VEHICLE TITLING

§91-3-1. General.

1.1. Scope. -- These legislative rules establish the requirements for the titling of motor vehicles and registrations other than the multi-jurisdictional registrations completed through the International Registration Plan.

1.2. Authority. -- W. Va. Code §§11-15-3c, 17A-2-9, 17A-3-14i, and 17A-4-11.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. ~~Repeal of Former Rule~~ — ~~These legislative rules repeal West Virginia Legislative Rules "Department of Motor Vehicles, Chapter 17A-2, Series 3, Motor Vehicle Titling" as a result of Section 3 being amended.~~ Sunset Provision. -- This rule shall terminate and have no further force or effect August 1, 2029.

1.6. Repeal and Replace. -- This legislative rule repeals and replaces WV 91CSR3 "Motor Vehicle Titling" filed and effective April 30, 1985.

§91-3-2. Titling a Motor Vehicle.

2.1. Application. An application for certificate of title must be accompanied by the appropriate fees, and:

2.1.1. Proof of insurance;

2.1.2. Photo identification and identity validation and verification developed by the Division of Motor Vehicles;

2.1.3. If the vehicle was previously titled in another state or jurisdiction, that title must accompany the application;

2.1.4. If a registration plate is also being transferred, appropriate registration information must also be included;

2.1.5. If the vehicle will require registration, the appropriate fee for the registration plate must also be included; and

2.1.6. Sales tax calculated as specified below.

2.2. Sales tax. Sales tax shall be calculated at the percentage of the sale price set by W. Va. Code § 11-15-3c.

2.2.1. If a purchaser exchanges another vehicle upon which the purchaser paid sales tax to the State of West Virginia as part of the consideration or sale price, commonly referred to as a trade-in, the portion of the consideration or sale price attributed to the trade-in shall be deducted from the total actual sale price for the vehicle being acquired by the purchaser for the purposes of calculating the sales tax.

2.2.2. Sales tax is assessed in accordance with W. Va. Code § 11-15-3c and 91CSR9.

2.3. Liens.

2.3.1. Recording. The Division of Motor Vehicles may authorize an application for a voluntary lien in an electronic or paper format whether made at the time of title or thereafter.

2.3.2. Release. A lienholder may release an electronic lien using the Division of Motor Vehicles' electronic lien and title system. Such action will satisfy the title delivery requirement in W. Va. Code § 17A-4A-6.

2.4. Title transfer by operation of law. All applications for certificate of title, whether electronic or paper, must be on the form prescribed by the Commissioner of the Division of Motor Vehicles and include the information required thereon.

2.5. Transfers to Dealers. All dealer reassignments must be accomplished using the electronic program designed by the Division of Motor Vehicles.

§91-3-3. Registration of a Motor Vehicle.

3.1. Application. Application for registration must be made in a manner prescribed by the Commissioner of the Division of Motor Vehicles.

3.2. Renewal. Registration renewal must be made in the manner prescribed by the Commissioner of the Division of Motor Vehicles.

§91-3-4. Fleet Registration.

4.1. Definitions.

4.1.1. For the purposes of this section, the term "fleet" means a group of 10 or more vehicles owned by an individual or corporate entity for commercial use.

4.1.2. "Fleet operator" means the business entity that owns the fleet.

4.2 Application process. Application for fleet registration must be made in a manner prescribed by the Commissioner of the Division of Motor Vehicles.

4.3. Registration.

4.3.1. The fleet operator must maintain proof of registration in each individual vehicle.

4.3.2. The Commissioner of the Division of Motor Vehicles shall design a standard registration plate for fleet operators. Alternatively, a fleet operator registering 100 or more vehicles may submit a request for a design for a custom plate at the cost of a special registration plate under W. Va Code § 17A-3-14e.

4.3.3. Annual fleet renewal must be completed online. Any registration renewals received in the mail will not be processed.

4.3.4. The fleet operator may apply for a one year or two year registration plate from the date of initial registration.

4.3.5. The fleet operator will pay the registration fees in full for each year of registration for each vehicle in the fleet at the time of renewal.

4.4. Addition and Deletion of Vehicles from Fleet.

4.4.1. A fleet owner may add or remove a vehicle from its fleet at any time.

4.4.2. If a fleet operator removes a vehicle from its fleet program, either by sale or salvage, the plate assigned to the vehicle removed from the program may be transferred to another vehicle added to the program or, if no other vehicle is available for plate transfer, the plate must be returned to the Division of Motor Vehicles.

4.5. Record Keeping Requirements.

4.5.1. Fleet operators must manage its fleet program in a manner required by the Division of Motor Vehicles.

4.5.2. Fleet operators are subject to inspections by the Division of Motor Vehicles.

4.6. Termination from Program.

4.6.1. A fleet operator may terminate participation in the fleet program for any reason by notifying the Division of Motor Vehicles in a manner prescribed by the Commissioner of the Division of Motor Vehicles. All plates must be returned to the Division of Motor Vehicles and all fees paid are non-refundable and may not be pro-rated.

4.6.2. The Division of Motor Vehicles may terminate participation of any participant for any failure to comply with statute, rule or policy established by the West Virginia Legislature or the Commissioner of the Division of Motor Vehicles.

4.7. Antique Fleet Registration.

4.7.1. "Antique fleet" means 5 or more vehicles which qualify as antique vehicles per W. Va. Code § 17A-3-10a(h) and are owned by an individual person.

4.7.2. An application for and antique fleet registration must be submitted containing all the required registration information for each vehicle in the fleet.

4.7.3. A single registration plate will be issued in a design to be determined by the Commissioner of the Division of Motor Vehicles, with a series of numbers and letters assigned to each antique fleet and may be used on any of the vehicles registered as part of that fleet.

4.7.4. All registration fees and renewals will be the same as a single antique registration plate per W. Va. Code § 17A-3-14.

4.8. Non-Resident Registration. A non-resident fleet operator may only register a fleet in West Virginia if the vehicles are also titled in West Virginia through the Title Clearinghouse.

§91-3-5. Title Clearinghouse.

5.1. The West Virginia Title Clearinghouse is the statutorily authorized program within the Division of Motor Vehicles for the issuance of motor vehicle titles and registrations to qualified non-resident businesses.

5.2. Application. A non-resident business may complete an application to become a participant in the Title Clearinghouse on a form and in a manner prescribed by the Commissioner of the Division of Motor Vehicles.

5.2.1. The initial application will authorize an approved applicant to participate in the Title Clearinghouse for one year.

5.2.2. A participant in good standing may apply for renewed participation annually.

5.3. Requirements. Non-resident businesses must meet and maintain the requirements set forth in statute, this rule and policy of the Division of Motor Vehicles. Notwithstanding a non-resident business meeting the requirements herein, the Division of Motor Vehicles may deny participation in the Title Clearinghouse for any reason or for no reason.

5.3.1. The non-resident business making application for participation in the Title Clearinghouse must be headquartered in the United States.

5.3.2. The non-resident business must process a minimum number of annual vehicle transactions through the Title Clearinghouse as determined by the Commissioner of the Division of Motor Vehicles.

5.3.3. All state and federal licenses required of the non-resident business by the federal government or any state government in which the business resides or does business must be valid and in good standing.

5.3.4. The non-resident business must maintain liability insurance which covers transactions submitted through the Title Clearinghouse.

5.3.5. The non-resident business must meet technical and program standards set by the Division of Motor Vehicles.

5.3.6. The non-resident business and its officers must meet any background check required by the Division of Motor Vehicles.

5.4. Penalty Bond. The non-resident business must submit a \$250,000 penalty bond on a form prescribed by the Commissioner of the Division of Motor Vehicles from a West Virginia licensed insurer made payable to the West Virginia Division of Motor Vehicles in accordance with W. Va. Code § 17A-4-11. In the event payment of this bond is triggered, the non-resident business will not be relieved of liability to the injured party by payment of the penalty to the Division of Motor Vehicles, and the injured party must be made whole by the non-resident business before that business will be considered eligible to remain in the program or eligible to participate in the program again if removed.

5.5. Fees. All fees are nonrefundable, must be submitted at the time of service and deposited in the Motor Vehicle Fees Fund in accordance with W. Va. Code § 17A-2-21 unless otherwise directed by statute or this rule.

5.5.1. The initial participation fee will be determined by the Commissioner of the Division of Motor Vehicles and must accompany the original application for participation in the Title Clearinghouse.

5.5.2. The annual renewal participation fee will be determined by the Commissioner of the Division of Motor Vehicles and must accompany the annual application for renewed participation in the Title Clearinghouse.

5.5.3. The transaction fee is a minimum of \$15 per title plus any technology fee per title assessed to fulfill contracts or agreements between the Division of Motor Vehicles and any contractor, portal manager, vendor or digital title service provider contracted or authorized by the Division of Motor Vehicles. The minimum title transaction fee shall be paid to the Division of Motor Vehicles and deposited in the State Road Fund. Any technology fee assessed shall be paid in a manner consistent with any agreement or contract.

§91-3-6. Consequences and Penalties for Noncompliance, Fraud and Misconduct.

6.1. The Division of Motor Vehicles may take any and all actions authorized by W.Va. Code §§ 17A-2-16, 17A-3-3, 17A-3-7, 17A-6-18, 17A-9-5, 17A-9-7 and any other section of code authorizing the Division to take action in the case of refusal to comply, fraud or other misconduct in a title or registration process whether the noncompliance, fraud or misconduct was committed using paper documents or electronic processes.

6.2. Any provision of code that assesses criminal penalties for misconduct involving a motor vehicle title or registration applies whether that misconduct was committed using paper documents or electronic processes.

~~§91-3-2. Application And Enforcement.~~

~~— 2.1. Application — These legislative rules apply to the titling of motor vehicles.~~

~~— 2.2. Enforcement — Enforcement of these legislative rules is vested with the Commissioner of Motor Vehicles or lawful designee.~~

~~§91-3-3. Titling A Vehicle.~~

~~3.1. A West Virginia certificate of title will not be issued for a vehicle unless there is compliance with the procedures herein set forth.~~

~~— 3.2. If the vehicle to be titled is a new vehicle, application for a certificate of title must be completed in every detail on the form prescribed for such purpose by the Department. Any application submitted to the Department for a certificate of title for a new vehicle shall be accompanied by a manufacturer's statement of origin, and any application submitted to the Department for a certificate of title for a new or used vehicle purchased from any licensed dealer shall be accompanied by a duplicate copy of the actual sales instrument created at the time of purchase.~~

~~— 3.3. If the vehicle to be titled is a used vehicle which at the time of application for a West Virginia certificate of title is titled in a jurisdiction which has a certificate of title law, the certificate of title from~~

~~such jurisdiction in the applicant's name or properly assigned to him by the seller must accompany the application for a West Virginia certificate of title. If the used vehicle was purchased from a dealer, an assignment of title by such dealer, whether a West Virginia dealer or a dealer in another jurisdiction, shall be sufficient. If the vehicle, at the time of application for a West Virginia certificate of title, is titled in a jurisdiction which does not have a certificate of title law, a certificate of registration in the applicant's name, or the registered owner's certificate of registration together with a certified bill of sale from such registered owner must accompany the application for a West Virginia certificate of title.~~

~~— 3.4. For the purposes of this section, any vehicle which has been titled in a jurisdiction which has a certificate of title law, or which has been registered in a jurisdiction which does not have a certificate of title law, shall be considered to be a used vehicle irrespective of the age of such vehicle or the extent of the use thereof.~~

~~— 3.5. The privilege tax on each motor vehicle, as required by Section 4, Article 3, Chapter 17-A of the Code of West Virginia, shall be paid to the Department, together with other required fees, before a certificate of title may be issued to an applicant. The privilege tax is required irrespective of whether the applicant has paid a similar sales or privilege tax on the motor vehicle in any other jurisdiction.~~

~~— 3.6. The privilege tax on a new motor vehicle shall be determined at the rate of five percent of the actual purchase price or consideration provided to the seller by the purchaser.~~

~~— 3.7. The privilege tax on a used or second-hand vehicle shall be determined at the rate of five percent of the present market value of the vehicle as shown in the most recent edition of the National Automobile Dealers Association (NADA) Official Used Car Guide Book. However, if the applicant provides the Department with a sworn statement that the actual price of the used or second-hand vehicle is less than the lowest NADA Guide Book, the amount shown on the statement shall be deemed the present market value for tax purposes. The Commissioner shall design and provide forms for this statement and may require any further proof of purchase price as he may deem desirable to protect the public interest.~~

~~— 3.8. On and after the date on which these Rules and Regulations become effective, applications for certificates of title and operator's and chauffeur's licenses made by a married woman shall bear the first name, middle name or initial, if any, of the spouse. For example, any such application must be in the name of Mary E. Doe and not Mrs. John E. Doe.~~

~~§91-3-4. Liens.~~

~~— 4.1. In the administration of the new Motor Vehicle Lien Recoordination Recording Act, Chapter 17A, Article 4A, of the Code of West Virginia, 1931, as amended, certain questions have arisen. Two questions occur with sufficient frequency to require rules and regulations for the effective administration of the act, and they are hereinafter set forth, viz.:~~

~~— 4.2. Joint Lienholders — When an application for a certificate of title shows a joint lien in favor of two or more persons, firms or corporations, the certificate of title will be issued showing a joint lien and it will contain the same information as if the lien were in favor of only one person, firm or corporation. In the absence of any designation on the application as to the lienor to whom the certificate of title is to be delivered, the certificate of title shall, assuming the joint lien is the first lien, be delivered to any one of the joint lienors. When the joint lien is not the first lien, the holder of the immediately prior lien shall, upon satisfaction of his lien, deliver the certificate of title to any one of the joint lienors.~~

~~— 4.3. Liens shown on certificates of title issued prior to July 1, 1961 — When application is made for a new certificate of title to a vehicle and the Department finds that the certificate of title to such vehicle~~

which was issued prior to July 1, 1961, the effective date of the Motor Vehicle Lien ReoordinationRecording Act, shows a lien, the Title and Registration Division shall require evidence showing whether the lien was satisfied and released. If found to be a valid and subsisting lien, the same shall be shown on the new certificate of title.

~~§91 3 5. Procedure To Be Followed When Transferring A Certificate Of Title To A New Owner and There Is An Unsatisfied Lien Recorded Thereon.~~

~~5.1. No application for transfer of a Certificate of Title for a vehicle that is being transferred to a new owner will be accepted if there is an unsatisfied lien recorded on the Certificate of Title. The lien was recorded against the previous owner as shown on the face of the Certificate of Title and can only be recorded on the Certificate of Title that is being issued to the new owner by the procedures outlined herein.~~

~~5.2. The lien recorded on the Certificate of Title must be released by the lien holder. If a lien is to be recorded on the Certificate of Title that will be issued to the new owner, the required information must be shown in the space provided in the new owner's application for Certificate of Title. This procedure would apply in cases where a lien shown on the front of the Certificate of Title is being transferred to the new owner. The two dollar reoordination recording of lien fee must accompany the new owner's application for Certificate of Title.~~

~~5.3. In the event two liens are to be recorded on a Certificate of Title for a new owner, only one lien should be shown on the application for Certificate of Title; and that should be the first lien holder. The second lien holder should execute Form MVD-84-A, Application To Record On Certificate Of Title A Voluntary Lien Created After The Issuance Of The Original Title. The lien recorded on the Certificate of Title from the Form MVD-84-A in all cases will be the second lien holder. An additional lien reoordination recording fee of two dollars must accompany the new owner's application for Certificate of Title.~~

~~5.4. The Certificate of Title issued in the new owner's name shall be mailed to the first lien holder.~~

~~§91 3 6. Transferring A Motor Vehicle Titled In The Name Of A Deceased Person.~~

~~6.1. There are three methods to effectuate the transfer of a title to a motor vehicle from a deceased person to an heir, legatee or other distributee, viz.:~~

~~6.2. If the deceased left a will, the duly appointed and qualified executor or executrix must, on the reverse side of the certificate of title, execute an assignment to the legatee or other person entitled to such motor vehicle. The certificate of title should then be forwarded to the Department together with a certified copy of the order appointing the executor or executrix and the required fee for the issuance of a new certificate of title.~~

~~6.3. If the deceased left no will and an administrator or administratrix of the decedent's estate has been appointed, such administrator or administratrix must, on the reverse side of the certificate of title, execute an assignment to the heir or other person entitled to such motor vehicle. The title should then be forwarded to the Department with a certified copy of the order appointing the administrator or administratrix and the required fee for the issuance of a new certificate of title.~~

~~6.4. If the deceased left no will and there has been no administrator or administratrix appointed, the heir entitled to such motor vehicle may execute an assignment of the vehicle to himself or herself by signing the deceased's name on the reverse side of the certificate of title by himself or herself as such heir.~~

The certificate of title should then be forwarded to the Department together with a properly executed form affidavit prescribed by the Department and the fee required for the issuance of a new certificate of title.

—6.5. Registration or license plates may also be transferred upon presentation of the deceased's registration card and payment of the required fee.

~~§91-3-7. Titling A Vehicle Repossessed Under A Conditional Sales Contract.~~

7.1. In order to secure a Certificate of Title to a vehicle sold under the terms of a Conditional Sales Contract, the lien holder must execute Department of Motor Vehicles' Form F-65, Application for a Certificate of Title for a Repossessed Vehicle. The lien holder shall execute Form MV-129 TR, Affidavit for Repossession of a Vehicle, in every detail.

—7.2. The lien holder should have custody of the original Certificate of Title that was issued to the owner of the vehicle that is being repossessed under the terms of the Conditional Sales Contract, which should be submitted to the Department of Motor Vehicles with the application and the lien holder's affidavit.

—7.3. In the event the lienholder does not have custody of the Certificate of Title, the lienholder must execute an affidavit stating that he does not have custody of the Certificate of Title, that he did not receive a Certificate of Title from the Department of Motor Vehicles; or if the Certificate of Title was received from the Department, complete details as to the disposition of the title must be a part of the affidavit. The affidavit must show a complete description of the vehicle in question including the manufacturer's name, style of body, year model, and serial number.

—7.4. The lienholder that repossessed or sold the vehicle at public auction must apply for a Certificate of Title in the name of such lienholder. The Certificate of Title will be issued in the name of the lienholder who will thereafter make proper assignment of title to the purchaser who purchased the vehicle at the public auction.

7.5. If the repossessing party is a registered West Virginia dealer, only the prescribed fee for issuance of a new Certificate of Title is required. If the repossessing party is not a registered West Virginia dealer, then the Privilege Tax prescribed by Chapter Seventeen A, Article Three, Section Four of the Code of West Virginia, 1931, as amended, on the present value of the vehicle as indicated by the unpaid balance at the time of repossession must be submitted in addition to the fee prescribed for the issuance of a new Certificate of Title. If a registered West Virginia dealer made the original sale and originated the Conditional Sales Contract, then such dealer may apply for the title (rather than the lender to whom or to which the contract was assigned) providing the Conditional Sales Contract was reassigned by the lender to the dealer prior to the date of repossession and the dealer made the repossession and conducted the public sale, if required.

~~§91-3-8. Titling A Vehicle Sold Under A Security Agreement, A Chattel Mortgage Or A Deed Of Trust.~~

8.1. To secure a Certificate of Title for a vehicle sold under the terms of a chattel mortgage, deed of trust, or a security agreement, the purchaser at such sale shall obtain Form MV-129 TR, Affidavit for Repossession of a Vehicle, from the lienholder. Such affidavit must be completed in every detail by the lienholder, an incomplete affidavit will not be accepted.

~~—8.2. The purchaser should also secure the original Certificate of Title that was issued to the owner of the vehicle that was sold under the terms of a chattel mortgage, deed of trust, or security agreement which should be in the custody of the lienholder.~~

~~—8.3. In the event the lienholder does not have custody of the Certificate of Title, then an affidavit executed by the lienholder stating that he does not have custody of the Certificate of Title, that he did not receive Certificate of Title from the Department of Motor Vehicles; or if the Certificate of Title was received from the Department, complete details as to the disposition of the title must be a part of the affidavit. The affidavit must show a complete description of the vehicle in question including the manufacturer's name, style of body, year model, and serial number. The affidavit must be signed by the lienholder and acknowledged by a Notary Public.~~

~~—8.4. The purchaser at such sale should complete Form MV 1 TR, Application for a Certificate of Title, in every detail and submit the same to the Department of Motor Vehicles with the documents outlined above.~~

~~—8.5. If the purchaser is a registered West Virginia dealer, only a \$1.00 Certificate of Title fee must accompany the application. However, if the purchaser is not a registered West Virginia dealer, then in addition to the Certificate of Title fee the purchaser must pay the Privilege Tax prescribed by Chapter Seventeen A, Article Three, Section four of the Motor Vehicle Code. The Privilege Tax shall be three percent of the purchase price paid for the vehicle at the sale.~~

~~—8.6. The new Certificate of Title can only be issued in the name of the purchaser at the sale. The purchaser cannot transfer ownership of the vehicle to another person except by assignment of the Certificate of Title issued in the purchaser's name.~~

§91-3-9. Titling A Vehicle Sold By Order Of A Court Or Justice Of The Peace.

~~9.1. To obtain a certificate of title to a vehicle sold by order of a court or justice of the peace and purchased at a sale held by a sheriff, constable or other officer, the purchaser must complete in full the form prescribed by the Department for such purpose and submit same to the Department, together with a certified copy of the court order or transcript of docket and a certified report of sale. Such report of sale must show the date of sale, and it must contain a full description of the vehicle (including manufacturer's name, year model and serial number) and the terms of sale, and it must be signed before a notary public by the person conducting the sale.~~

~~—9.2. The certified copy of the court order or transcript of docket must specify whether the vehicle was sold subject to any existing liens or sold not subject to any existing liens.~~

~~—9.3. A transcript executed showing John Doe as the defendant will not be accepted by the Department of Motor Vehicles. In the event the owner is not known and the Department has no record of the vehicle being registered in the name of the defendant, the transcript should show the defendant as the "unknown owner of the vehicle described herein."~~

~~—9.4. If the purchaser is a registered West Virginia dealer, only the fee prescribed for obtaining a new certificate of title must accompany the application therefore and the above described documents. However, if the purchaser is not a registered West Virginia dealer, then in addition to the fee prescribed for obtaining a new certificate of title, the purchaser must also pay the privilege tax prescribed by Chapter 17A, Article 3, Section 4 of the Code of West Virginia, 1931, as amended, on the purchase price paid for the vehicle at the sale. The title can only be issued in the name of the purchaser at the sale. Revised December 15, 1968.~~

~~§91-3-10. Titling A Vehicle Sold To Satisfy A Mechanic's Lien Or Other Miscellaneous Lien.~~

~~10.1. The procedures outlined below must be properly executed before a certificate of title can be obtained for a vehicle sold to satisfy a mechanic's lien or other miscellaneous lien in accordance with Chapter 38, Article 11 of the Code of West Virginia, 1931, as amended.~~

~~—10.2. The lienor or pledgee shall give a written notice to the person on whose account the vehicle is held, and to any other person known by the lienor to claim an interest in the vehicle. Such notice shall be given by delivery in person or by registered letter addressed to the last known place of business or abode of the person to be notified.~~

~~—10.3. The notice shall contain an itemized statement of the lienor's or pledge's claim showing the sum due at the time of the notice and the date or dates when it became due, and a description of the vehicle against which the lien or pledge exists. Such description must include the manufacturer's make, year model and serial number. A demand that the amount of the claim as stated in the notice, and of such further claim as shall accrue, shall be paid on or before a day mentioned, not less than ten days from the delivery of the notice. A statement that unless the claim is paid within the time specified, the vehicle will be sold by auction at a specified time and place.~~

~~—10.4. In accordance with the terms of the notice so given, a sale of the goods by auction may be had to satisfy any valid claim of lienor or pledgee for which he has a lien or pledge on the vehicle. The sale shall be had in the place where the lien or pledge was acquired; or if such place is, manifestly unsuitable for the purpose, at the nearest suitable place. After the time for the payment of the claim specified in the notice to the depositor has elapsed, an advertisement of the sale describing the vehicle to be sold stating the name of the owner or person on whose account the vehicle is held and the time and place of the sale shall be published once a week for two consecutive weeks in a newspaper published in the place where such sale is to be held.~~

~~—10.5. The sale shall not be held less than fifteen days from the time of the first publication. If there is no newspaper published in such place, the advertisement shall be posted at least ten days before such sale in not less than three conspicuous places therein. One of which places shall be in the premises where the vehicle is held under the lien: Provided, however, that the vehicle that is to be sold is of a value of less than five hundred dollars, then it shall not be necessary to advertise the sale in a newspaper as hereinbefore provided but, notice of the sale shall be published by posting the same in three conspicuous places at the time and in the manner hereinbefore provided.~~

~~—10.6. The purchaser must complete in full an application for a certificate of title and submit to the Department of Motor Vehicles together with a certified copy of the notice of sale and a certified copy of the report of sale as held. Such report of sale must show the date of the sale, a complete description of the vehicle including the manufacturer's make, year model and serial number, the names of the persons bidding on the vehicle, the amount of each person's bid, and the terms of the sale. The report of sale must be signed by the lienor or pledgee and acknowledged by a notary public.~~

~~—10.7. A notice of sale or any other document the Department may require that is executed showing the name of the person on whose account the vehicle is being sold as John Doe will not be acceptable to the Department of Motor Vehicles. In the event the name of the owner is not known and the Department has no record of the vehicle being titled or registered in this state, the notice of sale and all other documents should show the person on whose account the vehicle is being sold as the "unknown owner of the vehicle described herein."~~

~~—10.8. Pending an investigation to determine the validity of the application, the Commissioner of Motor Vehicles may delay the issuance of a certificate of title on any application for certificate of title that is made in accordance with the provisions of Chapter 38, Article 11 of the Code of West Virginia.~~

~~—10.9. If the purchaser is a registered West Virginia dealer, only the fee prescribed for obtaining a new certificate of title must accompany the application therefore and the above described documents. However, if the purchaser is not a registered West Virginia dealer, then in addition to the fee prescribed for obtaining a new certificate of title, the purchaser must also pay the privilege tax prescribed by Chapter 17A, Article 3, Section 4 of the Code of West Virginia, 1931, as amended, on the purchase price paid for the vehicle at the sale. The title can only be issued in the name of the purchaser at the sale. Revised December 15, 1968.~~

~~§91-3-11. Reassignment Of Out Of State Certificate Of Title To A Motor Vehicle.~~

~~11.1. On and after September 10, 1969, Form DMV-1A will be accepted by the Department of Motor Vehicles as a valid reassignment of an out-of-state certificate of title. The form would permit a registered West Virginia dealer to reassign an out-of-state certificate of title to the purchaser of the vehicle for the purpose of securing a West Virginia Certificate of Title in the purchaser's name only.~~

~~—11.2. This reassignment is not valid and will not be accepted unless there is attached thereto the properly assigned out-of-state title with all the reassignment forms that have been issued by out-of-state dealers, including the reassignment to the dealer that is making a reassignment to the purchaser. This reassignment form cannot be used to reassign a West Virginia Certificate of Title or to reassign an out-of-state title from one dealer to another or for any other purpose except as provided herein.~~

~~—11.3. In the event the vehicle is registered in a state that does not have a Certificate of Title Law, the following procedures must be followed. If the vehicle is new, a Manufacturer's Certificate of Origin assigned or reassigned to the West Virginia dealer by an out-of-state dealer would be accepted as proof of ownership. The West Virginia dealer may execute Form DMV-1A reassigning the vehicle to the purchaser. The Manufacturer's Certificate of Origin, properly assigned to the West Virginia dealer, must accompany the purchaser's application for Certificate of Title. If the vehicle is used, the Certificate of Registration of the former owner assigned to a West Virginia dealer, if the Certificate of Registration provides space for a reassignment, or a properly executed Bill of Sale transferring ownership to a West Virginia dealer would be accepted as proof of ownership. With these documents, the West Virginia dealer can reassign the vehicle to the purchaser by properly executing Reassignment Form DMV-1A.~~

~~—11.4. In some states, a form of affidavit is required for new and used vehicles sold by a registered dealer in that state. This form, executed by a registered dealer transferring ownership to a West Virginia dealer would be accepted as proof of ownership. A West Virginia dealer with this document, could make a reassignment to a purchaser with Reassignment Form DMV-1A. The affidavit can only be accepted if properly executed on a form provided by the agency responsible for the administration of the Title and Registration Laws of that state.~~

~~—11.5. West Virginia dealers who may obtain possession of a vehicle through the procedures outlined above should examine the reassignment forms carefully to ascertain if the proper reassignment form has been executed by each dealer who may have owned the vehicle since the original transfer was made from the last registered owner. They should also verify the actual serial number of the vehicle against the serial number shown on the out-of-state Certificate of Title or Registration.~~

~~—11.6. The reassignment form should not be interpreted as an application for Certificate of Title. However, the reassignment form should accompany the application for West Virginia Certificate of Title~~

with the out of state title and all reassignment forms executed by an out of state dealer; or any other document issued by a foreign jurisdiction as proof of ownership that is acceptable to this Department.

~~—11.7. It shall be the responsibility of the dealer to execute the purchaser's application (Form DMV-1) for a West Virginia Certificate of Title in every detail. It shall also be the responsibility of the dealer to have the serial number inspection made and verified by an officer or other person authorized to make such inspection before the application is delivered to the purchaser or submitted to the Department of Motor Vehicles as the case may be. This should be standard procedure for a dealer to assure his customer that the vehicle is properly registered.~~

~~—11.8. The reassignment form must be completed in every detail. If there are no liens against the vehicle, the word none should be inserted in the space designated as first lien holder. The form must be signed by the dealer or an officer or employee authorized to make reassignments of title for the dealer and acknowledged by a Notary Public.~~

~~—11.9. On written request, additional copies of Form DMV-1A can be made available to any registered West Virginia dealer.~~

~~§91-3-12. Certificate Of Title And License Required For All Types Of House Trailers.~~

~~12.1. Chapter Seventeen A, Article Ten, Section One of the Motor Vehicle Code outlines the various classification of vehicles for the purpose of registration. Class R Registrations under this Section of the Code is defined as house trailer. Due to the many types of house trailers being manufactured, there is considerable misunderstanding as to the proper classification of registration for many of these house trailers. To properly classify such vehicles requires Administrative Rules and Regulations for the effective administration of this Section of the Code. Such Rules and Regulations are hereinafter set forth.~~

~~—12.2. The Department of Motor Vehicles would interpret this Section of the Code as outlined: A house trailer which is designed, constructed and equipped as a dwelling place, living abode, or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or a house trailer whose chassis and exterior shell is designed and constructed for use as a house trailer as defined above, but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.~~

~~—12.3. With this interpretation of a house trailer, the Department of Motor Vehicles would require all types of house trailers to be registered with a Class R License Plate. In addition to the regular house trailers, this would include such types of house trailers as camping, folding, vacation, travel, recreation, offices, and all other types within the above definition of a house trailer that are subject to the title and registration provisions of the Motor Vehicle Code.~~

~~—12.4. There is also a gross misunderstanding relative to the titling of house trailers that are not being used on the highways of this State. Chapter Seventeen A, Article Four, Section Four of the Code reads in part as follows: "When the transferee of a vehicle does not drive such vehicle or permit it to be driven on the highways, such transferee shall not be required to obtain a new registration of said vehicle, but such transferee shall be required to forward the Certificate of Title to the Department accompanied by an application for a new Certificate of Title in his name." This Section of the Code only exempts the owner from the registration provisions. The vehicle is still subject to the Certificate of Title Provisions of the Code.~~

~~—12.5. Dealers licensed to sell house trailers in this State should furnish the purchaser with a properly executed application for a Certificate of Title and advise the purchaser that the Motor Vehicle Code requires him to secure a Certificate of Title in his name, regardless of the fact that the vehicle may never be used on the highways.~~

~~—12.6. The Certificate of Title is the only document the Department would accept as proof of ownership should the owner desire to sell the vehicle at a later date.~~

~~—12.7. Any individual, partnership, company, or corporation who has not obtained an official title for the vehicle from the Department of Motor Vehicles would be in violation of this Section of the Code. Entered as a Department Regulation January 1, 1970.~~

~~§91-3-13. Requirements And Procedures For Titling Assembled Trailers or Semi Trailers.~~

~~13.1. When an original application for a West Virginia certificate of title is submitted to the Department of Motor Vehicles for an assembled trailer or semi-trailer, there must be submitted with the application any additional information the Department may require to properly classify the vehicle for registration and to determine the fees required to title and register the vehicle.~~

~~—13.2. FORM OF APPLICATION REQUIRED: Department of Motor Vehicles Form MV-1, application for a West Virginia certificate of title, and Form MV-1-TR, additional information required to title and register an assembled trailer or semi-trailer. The following information must be inserted in the proper space in the application for certificate of title:~~

~~MAKE: Assembled.~~

~~YEAR MODEL: The year in which the vehicle was assembled.~~

~~VEHICLE IDENTIFICATION NUMBER: The Department of Motor Vehicles will assign the vehicle a West Virginia Vehicle Identification Number.~~

~~BODY STYLE: Semi-trailer, trailer, low boy trailer, transporter trailer, pole trailer, utility trailer, boat trailer, etc.~~

~~SUPPORTING DOCUMENT REQUIRED: If the trailer or semi-trailer was built for the applicant by any other person or company, a certified copy of the bill of sale should accompany the application for certificate of title. The bill of sale must include all parts, material, and labor used in the construction of the vehicle. Two photographs, one front view and one side view, of the vehicle must accompany the application for a certificate of title.~~

~~FEES REQUIRED: The following fees must accompany the application for certificate of title and registration.~~

~~PRIVILEGE TAX: Chapter Seventeen A, Article Three, Section Four of the Code, as amended, imposed a privilege tax upon the privilege of effecting the certificate of title for this type vehicle in the amount of five per cent of the value of the vehicle at the time of certification.~~

~~13.3. If the vehicle is new, the actual purchase price or consideration to the purchaser thereof shall be the value of the vehicle as evidenced by the certified bill of sale that is required to be submitted with the application for certificate of title. Example No. 1: A small utility or boat trailer with one axle and one or two wheels that is designed to be drawn by a Class A motor vehicle would have a minimum value of one~~

hundred dollars. Example No. 2: A large low boy trailer with four axles, eight dual wheels, and a body constructed of large steel beams that is designed for the transportation of heavy construction equipment would have a minimum value of two thousand dollars.

~~— 13.4. The tax imposed by this section of the Code would be required whether the vehicle or any of the parts was acquired through purchase, by gift, or by any other manner whatsoever.~~

~~— 13.5. LICENSE FEE: If the trailer is of a type designed to be towed by a Class A motor vehicle and has a gross vehicle weight of less than two thousand pounds, the trailer must be registered with Class T license plate for a fee of six dollars for the entire fiscal year. If the trailer has a gross vehicle weight in excess of 2,000 pounds, it must be registered with a Class C license plate for a fee of seventeen dollars and fifty cents for the entire fiscal year. The above registration fees will be reduced one fourth each quarter of the fiscal year on the following dates: October 1st, January 1st, and April 1st.~~

~~— 13.6. If it is determined that any part of an application for certificate of title for an assembled trailer or semi-trailer is false or any part of the documents submitted with the application is false or fraudulent, or the applicant has failed to furnish the required information, it would be sufficient reason for the Department to refuse the application or revoke the certificate of title if one has been issued, as provided in Chapter Seventeen A, Article Three, Section Seven of the Motor Vehicle Code.~~

~~— 13.7. If, for any reason, the Department is not satisfied with the contents of the application and any additional information submitted with such application, the Department may require a complete investigation to determine the validity of the application before the certificate of title is issued.~~

~~— 13.8. The Department of Motor Vehicles will issue a vehicle identification number plate for each vehicle that is assigned a West Virginia identification number. Such number will be prefixed with the letters WV, which would indicate that the West Virginia Department of Motor Vehicles assigned the number and issued the plate for the assembled vehicle.~~

~~§91-3-14. Titling Vehicles That Are Not Operated On The Highway.~~

~~14.1. There is considerable misunderstanding relative to the titling of vehicle that are not operated on the highway and, therefore, required Administrative Rules and Regulations for the effective administration of this Section of the Code. Such Rules and Regulations are herein set forth.~~

~~— 14.2. Chapter Seventeen A, Article Four, Section Four of the Motor Vehicle Code reads in part as follows: "When the transferee of a vehicle does not drive such vehicle or permit it to be driven upon the highways, such transferee shall not be required to obtain a new registration of said vehicle, but such transferee shall be required within ten days from the date of such transfer to forward the Certificate of Title to the Department accompanied by an application for a new Certificate of Title."~~

~~— 14.3. Any individual, partnership, firm, or corporation operating an off the highway vehicle who has not secured a Certificate of Title in their name and paid the required taxes and fees would be in violation of this Section of the Code. The owner is exempt from the Registration Provision only and is not exempt from the Title Provisions of the Code.~~

~~— 14.4. Many dealers are engaged in the leasing of motor vehicles to persons who do not operate them on the highways. If the vehicles are leased in the trade name of the dealer, such vehicles would be subject to the Certificate of Title and Privilege Tax Provisions of the Code. A properly executed application for Certificate of Title in the trade name of the dealer should be submitted to the Department of Motor Vehicles with the required fee in accordance with the above Section of the Code.~~

~~—14.5. In the event a dealer is leasing such vehicles through a separate leasing corporation, the application for Certificate of Title should be executed by the dealer in the name of the leasing corporation.~~

~~—14.6. A Dealer Certificate of Title issued to a dealer for resale only as provided in Chapter Seventeen A, Article Three, Section Three of the Code would not comply with the Title and Privilege Tax requirements outlined herein.~~

~~—14.7. When a vehicle is sold by a dealer to a person who does not plan to operate such vehicle on the highways, the dealer should furnish the purchaser with the proper document to title the vehicle and advise the purchaser that the Motor Vehicle Code requires him to secure a Certificate of Title in his name, regardless of the fact that the vehicle may never be operated on the highways.~~

~~—14.8. The Certificate of Title is the only document the Department would accept as proof of ownership should the owner desire to sell the vehicle at a later date.~~

~~—14.9. Any individual, partnership, company, or corporation who has not obtained an official title for the vehicle from the Department of Motor Vehicle would be in violation of this Section of the Code. Entered as a Department Regulation January 1, 1970.~~

~~§91-3-15. Titling and Registering Vehicles Designated As Trucks Or Trailers That Are Designed And Used Primarily As Off The Highway Vehicles.~~

~~15.1. The problems involved in titling and registering vehicles designated by the manufacturer as off-the-highway vehicles are such that they require administrative regulations defining an off-the-highway vehicle and specifying the additional documents and information that must accompany the application for certificate of title.~~

~~—15.2. The department would define an off-the-highway vehicle as a truck or trailer that does not and cannot conform to the statutory limitations for use on the highway without a special permit because of its size and weight. Such vehicles must be designed for off-the-highway use in construction, mining, or quarrying operations. A special permit from the Department of Highways would be required to move the vehicles on the highways of this state as provided in Chapter Seventeen C, Article Seventeen, Section Eleven of the West Virginia Code and within the limitations provided herein.~~

~~—15.3. Such heavy duty off-the-highway equipment shall be titled and registered as special mobile equipment that is to be incidentally operated over the highways of this state without a load for the sole purpose of moving the vehicle to or from a place of repairs or moving the vehicle from one job site to another, without a load, between sunrise and sunset. Under no circumstances can an off-the-highway vehicle be moved on the highways on Saturday, Sunday, or any legal holiday.~~

~~—15.4. An affidavit must accompany the application for a certificate of title giving a complete manufacturer's description of the vehicle, including the manufacturer's make of the vehicle, body style, year model, vehicle identification number, model number, body identification number assigned by the body manufacturer and the length, width and height of the body in feet. If the body was installed by the manufacturer of the vehicle, no body identification number would be required.~~

~~—15.5. The affidavit must show the name of the owner whether the owner be a corporation, partnership, or an individual. In all cases, the name on the affidavit must be identical to that shown on the application for a certificate of title. If a corporation, the affidavit must be signed by the president or vice-president of the corporation; if a partnership, by the partner responsible for the business management of~~

~~the partnership; if an individual, the affidavit must be signed by the owner. The title of the person signing the affidavit shall be indicated after the signature. The affidavit must be properly acknowledged by a notary public. Department of Motor Vehicles Form DMV-168-TR, Owner's Affidavit as to the Operation of an Off-The-Highway Vehicle, as provided herein, will be made available to dealers and owners of vehicles designated as off-the-highway vehicles.~~

~~— 15.6. There must also accompany the application for a certificate of title a copy of the body manufacturer's original invoice. In addition to all the other information shown on the invoice, the department would require the following information in order to know the size of the body and the vehicle on which it was installed: the name and address of the dealer or owner that purchased the body, the length, width and height of the body, body model number, and body identification number assigned by the body manufacturer. The invoice must also show the manufacturer's vehicle identification number of the vehicle on which the body was installed.~~

~~— 15.7. The requirements and limitations of this administrative regulation would not apply to vehicles that are normally classified as special mobile equipment.~~