



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Motor Vehicles TITLE-SERIES: 91-03
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Motor Vehicle Titling
CITE STATUTORY AUTHORITY: 11-15-3c, 17A-2-9, 17A-3-14i, 17A-4-11

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) SB60

Section 68-8-1 Passed On 3/8/2024 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 1, 2024

This rule shall terminate and have no further force or effect from the following date:

August 01, 2029

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. -- April 1, 2024

1.4. Effective Date. -- April 1, 2024

1.5. 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 a certificate of title must be accompanied by the appropriate fees:

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;

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

2.1.5. If the vehicle requires registration, the appropriate fee for the registration plate; and,

2.1.6. Sales tax as calculated in subsection 2.3 of this section.

2.2. Application for non-resident businesses. An application by a non-resident business for a title through the Title Clearinghouse must be accompanied by any documents prescribed by the Commissioner.”

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

2.3.1. 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.

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

2.4. Liens.

2.4.1. 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.

2.4.2. 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.

2.5. 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.

2.6. 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 an 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 an 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.