Statement of Reasons for the Modified Terms

Title 13, Division 1, Chapter 1

Article 3. Vehicle Registration and Titling

§ 153.12. Refusal to Approve Application for Service Provider's Permit or to Approve Renewal of Service Provider's Permit.

Subsection (a)(4) is amended to remove reference to the suspension. As originally proposed, the adoption of subsection (a)(4) the department would refuse to approve a service provider's application when the service provider fails to resolve any issue that led to a previous suspension or revocation. This amendment removes reference to suspension. The department is no longer considering a suspension penalty. During the 45-day comment period, the department received a comment stating that transferring a lienholder to a replacement service provider is a compliance problem for the lienholder. The department agrees that requiring the transfer to another service provider during a suspension would create a difficulty to a lienholder. Because the department is removing the suspension penalty, subsection (a)(4) is amended to clarify that the department could refuse to approve a service provider permit when they have not yet resolved the issue that led to their revocation.

§ 153.14. Suspension or Revocation of Service Provider's Permit.

Current regulation authorizes the department to suspend or revoke a service provider permit for reasons specified in subsection (a)(1) through (a)(3), as it relates to suspensions; and subsections (b)(1) through (b)(3) as it relates to revocation. The department is proposing to remove subsection (a) as it will no longer be moving forward with a suspension penalty.

Subsection (a)(3), formerly subsection (b)(3), is amended for clarity. As currently written, a service provider could be revoked for failing to obtain "Active" status with the Secretary of State within 30 days after receiving notification from the department. The amendment also allows the department to take a revocation action if the service provider does not have an "Active" standing with the Secretary of State. Active status with the Secretary of State provides the department with an indication that the service provider is legally allowed to operate in California.

Subsection (a)(4) is amended to clarify that the department would take a revocation action if the service provider fails to respond to departmental communications or directives for more than 30 days. Because the corresponding provision is removed from subsection (a), additional clarification

is needed to subsection (a)(4). Furthermore, reference to subsection (a)(4) is removed for consistency. The adoption of this provision is necessary as it establishes the departments intention to revoke a permit when the provider fails to respond to department communications. Requiring a response within 30 days is necessary as it establishes accountability on behalf of the service provider by acknowledging they understand what is being asked of them by the department. This requirement also compels compliance with policies that often relate to policy and legal compliance.

Subsections (c), (c)(1), and (c)(2) are repealed. As originally proposed, subsection (c) prohibited a service provider from providing service to additional lienholders during their suspension and required the transfer of their lienholders to the lienholder's preferred alternative service provider. These provisions are repealed as there is no longer a suspension penalty. The department received feedback that requiring the transfer of lienholders during a suspension and before hearing is a final decision and not a temporary one. The department ultimately agreed and determined it best to remove the suspension sanction altogether.

Subsection (b) is adopted to identify those activities a service provider cannot engage in after revocation and includes a prohibition from providing service to any lienholders for a period of one year from the date of revocation, as specified in subsection (b)(1), and requires the transfer of lienholders to the lienholders preferred service provider, as specified in subsection (b)(2). These provisions are necessary to establish the minimum duration of a revocation action and to ensure the lienholder does not experience a lapse in service due to the service provider's revocation.

Subsection (d) is renumbered to subsection (c) and this subsection also contains and updated citation.

§ 153.16. Demand for Hearing after Refusal to Approve or Renew, Suspension or Revocation of Service Provider's Permit.

Subsection (a) is amended to remove the word 'suspension.' This amendment is necessary to ensure consistency with other amendments where the suspension penalty is being removed.

§ 153.18. Reinstatement of Service Provider's Permit.

As currently written, the purpose of section 153.18 is to identify the reinstatement procedures when a service provider has been suspended. Section 153.18 is amended to remove provisions related to reinstating after a permit has been suspended. Instead, Section 153.18 establishes a rule that, when a service

provider permit is revoked, the service provider must apply for a new permit to reinstate participation in the electronic lien and title program and prohibits submission of a new application any less than one year form the date of revocation. This provision is necessary to clearly establish the process to apply for program participation after a revocation and to identify the minimum term of the revocation, which is one year.

§ 153.26. Term of Lienholder's Permit.

Subsection 153.26(a)(2) is amended to remove reference to a suspension.

Subsection (b), as originally proposed, authorized the department to suspend a lienholder's permit if the lienholder fails to respond to program communications or directives for more than 30 days and noted that the department will send a notice of suspension to the lienholder's address. This provision is removed as the department is no longer providing for a suspension penalty for lienholders. Subsection (b) is amended to make clear that the department will revoke a lienholders permit if they fail to respond to department directives or communication within 30 days two or more times. The amendment adds additional details related to the revocation action, which is necessary as the corresponding detail was removed when the suspension provisions were removed. The adoption of this provision is necessary as it establishes the departments intention to revoke a permit when the lienholder fails two or more times to respond to department communications within 30 days. Requiring a response within 30 days is necessary as it establishes accountability on behalf of the lienholder by acknowledging they understand what is being asked of them by the department. This requirement also compels compliance with policies that often relate to policy and legal compliance.

Subsection (c), as originally proposed, made clear that the ELT program may require the lienholder's service provider to convert the lienholder's titles to paper certificates of ownership when the lienholder's permit is revoked. The department is amending subsection (c) to remove the word "may" and replace with "will." Using the word "may" is unclear as it could lead the lienholder to believe there are situations in which their titles would not have to be transferred to paper certificates of ownership. The department is not currently aware of any situation where the transfer would not be required when the lienholder's permit is revoked. For this reason, the word "will" expresses that the transfer of titles will be mandatory.

§ 153.28. Lienholder Withdrawal from the Electronic Lien and Title Program and Conversion of Electronic Titles.

Subsection (c), as originally proposed, made clear that, if a Service Provider fails to fulfill the Lienholder's request to convert titles to paper certificates of ownership, the department may require the Service Provider to convert the Lienholder's electronic titles to paper certificates of ownership in order to facilitate the Lienholder's withdrawal. The department is amending subsection (c) to remove the word "may" and replace with "will." Using the word "may" is unclear as it could lead the Lienholder or Service Provider to believe there are situations in which the department would not require the transfer of titles when the Service Provider fails to take action upon notification from the Lienholder. The department will compel the Service Provider to transfer certificates of ownership in order to facilitate the Lienholder's withdrawal from the ELT program.