

Initial Statement of Reasons
Title 13, Division 1, Chapter 1
Article 3.0 – Vehicle Registration and Titling
(Electronic Lien and Title Program)

Background and Explanation of Problems Addressed

Background Summary

In 1989, the department developed its Electronic Lien and Title pilot program and participation was voluntary. General Motors Acceptance Corporation (GMAC) was the first lienholder to join.

Under the Electronic Lien and Title program, when the department receives an application for title or registration showing the lienholder's name, address, and Electronic Lien and Title ID number an electronic lien record is produced, by the department, in lieu of a paper title.

Since initiating the original pilot, the department and lending industry have collaborated on a number of improvements and changes to the program up to and including the requirements proposed in these regulations. Today, California's Electronic Lien and Title program consists of a modern, web-based connectivity system allowing for secure file transfer between service providers/software vendors and the department. These vendors provide the subsequent linkage to the entities holding liens on vehicles.

Vehicle Code sections 1801 and 1801.1 authorize the department to allow a person to submit any documents required to be submitted to the department by using electronic media deemed feasible by the department instead of requiring the actual submittal of the original document. Vehicle Code section 1801.1(c) authorizes the department to, among other things, establish security standards and technological requirements, or terms and conditions, including methods of authentication for electronically submitted signatures.

Vehicle Code section 4450.5 directs the department to develop an Electronic Lien and Title program, in consultation with stakeholders, that would require lienholders' title information be stored electronically, if the department determines that such a program is cost effective compared to its paper system. The department subsequently determined that handling paper Certificates of Title is far costlier for both government and lenders than an electronic system. Paper certificates require intensive forms of physical security, counterfeit-proof measures, and significant expenditures in printing, sorting, and mailing. Electronic systems can leverage existing information technology security already in place where government and financial industry systems reside.

The legislation enacting Vehicle Code section 4450.5 (Assembly Bill 1515, 2009) was initiated within the lending community. Since then, virtually the entire industry has already moved to enroll in California's program. To that extent, while an electronic titling system is cost effective,

these regulations will not create a significant impact; the benefits were realized with the enactment of the statute itself.

Problem Addressed by these Regulations

The problem the adoption of these regulations is intending to address is the implementation of Vehicle Code section 4450.5 which requires the department to develop an Electronic Lien and Title (ELT) program that requires all lienholders' title information to be held in an electronic format, if the department determines that the program is cost effective compared to the current paper title and registration system.

Necessity of Each Proposed Adoption to Accomplish the Stated Purpose

§153.00 Purpose

Subsection (a) states that these regulations are to implement section 4450.5 of the vehicle code and will specify the requirements that applicants must meet in order to participate as an Electronic Lien and Title service provider.

Subsection (b) specifies that participation in the program will only be allowed as permitted in these regulations and the vehicle code.

Necessity: To inform the public that these regulations govern the program envisioned in Vehicle Code section 4450.5.

§153.02 Definitions

Subsection (a) describes what type of documents are included under business documents for purposes of this program.

Necessity: To inform applicants so they know what to include with their application.

Subsection (b) clarifies that an electronic title is an electronic data file created by the department and transmitted to a lienholder for purposes of this program.

Necessity: To make clear to the public that titles will be transmitted and stored in electronic format rather than in paper format.

Subsection (c) explains that the term lienholder is the same as a legal owner as defined in section 370 of the vehicle code.

Necessity: To make clear that continuity has been ensured between statute and these regulations.

Subsection (d) explains that a secure file transfer means transmitting data over the internet that has been encrypted with software that has that capability.

Necessity: To inform the public how the data is being transferred and that it is secure.

Subsection (e) explains that the term service provider is the person or entity that has applied to and been approved by the department to be able to act on behalf of lienholders and has the software connectivity to send and receive electronic files with the department.

Necessity: To inform the public who is the intermediary between lienholders and the department for the purpose of transmitting titling data to the department.

§153.04 Requirements for a Service Provider

Subsections (a), (a)(1), and (a)(2) set forth that a person or entity that has successfully completed secure file transfer testing after submitting a complete application and has been approved by the department will be able to act on behalf of lienholder participants.

Necessity: To make clear to the public what a service provider applicant must do in order to be approved to participate in the Electronic Lien and Title program. The secure file transfer connectivity testing is necessary to ensure that the transmission process between the service provider and the department works.

§153.06 Service Provider's Permit

Subsection (a) prohibits a service provider, whose permit is not in full force and effect, from acting on behalf of lienholders.

Necessity: To inform service providers and lienholders that the service provider's permit must be currently active in order for them to conduct business with the department on lienholder's behalf.

Subsection (b) prohibits a service provider from sending any data to the department if testing of the secure file transfer has not been completed successfully.

Necessity: The transmission of data may not work properly, files may not be secure, if a service provider tries to send data to the department without having successfully completed secure file transfer connectivity testing. Since the department is ultimately responsible for protecting personal/confidential information it is necessary to make certain that data transmission to and from the service providers are secure.

§153.08 Service Provider's Permit Application

Subsection (a) instructs service providers who want to participate in the Electronic Lien and Title program to submit to the department a form REG 670, Electronic Lien and Title (ELT) Program Service Provider Application. The Electronic Lien and Title (ELT) Program Service Provider Application form, REG 670, (NEW 1/2018) is incorporated into the regulation here:

Electronic Lien and Title (ELT) Program Service Provider Application form, REG 670

The form REG 670 is a new departmental form consisting of nine sections.

The upper right-hand corner contains a 'DMV USE ONLY' box with spaces for the department to fill in the service provider name, the permit number, and the approval implementation date.

Section 1 – Service Provider

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Section 1 requires the applicant to provide their firm or business name, EIN, address, and mailing address (if different) in the spaces provided. It also requires the applicant to indicate by yes or no checkboxes if they have ever offered services to lienholders and if yes, to indicate how many years in the space.

Section 2 – Type of Ownership

Section 2 requires the applicant to indicate by checkboxes the type of ownership their business is under, by yes or no checkboxes if they are registered in California, by yes or no checkboxes if they are registered in another state, and if yes, to indicate which state in the space. Section 2 also requires the applicant to provide their license number and agency they are registered with, if applicable.

Section 3 – Owner/Corporation Name

Section 3 requires the applicant to provide their owner or corporation name, office telephone number, and the address.

Section 4 – Business Contact

Section 4 requires the applicant to provide the name, email address, office telephone number, and address of their business contact.

Section 5 – Certification

Section 5 is the certification section and requires the Electronic Lien and Title Program service provider applicant to provide, under penalty of perjury that the information provided to the department on this REG 670 is true and correct, the signature of their authorized agent, their firm or business name, the date, the printed name and title of their authorized agent, their telephone number, and their fax number. This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Section 6 – General

Section 6 informs the service provider permit applicant that they are agreeing to notify the department no less than 30 days ahead of their chosen date to terminate their participation in the program and that they must convert their electronic titles to paper. Also, that the department may terminate the service provider's participation in the Electronic Lien and Title program upon giving 30 days written notice to the service provider participant.

Section 7 – Applicant Agreement

Section 7 contains three expectations related to participation in the program. There is a space next to each expectation for an individual to provide their initial which signifies they understand the expectation.

Section 8 – Information Security Requirements

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Section 8 contains two requirements related to information security that the service provider applicant must agree to comply with.

Section 9 – Acknowledgement

Section 9 requires the applicant's authorized agent to sign, provide the firm or business name, date, print name, and title, acknowledging that they have read and understand the Terms and Conditions, and Security Policies stated above.

Necessity: This section will make clear to anyone who wants to become an Electronic Lien and Title Program service provider how to apply to the department. Having a specific form as the application makes processing and record keeping efficient for the department.

Subsection (b) instructs service provider permit holders to submit to the department an Electronic Lien and Title (ELT) Program Service Provider Application form, REG 670 when requesting any change or modification to their active permit.

Necessity: To inform service provider permit holders how to request any changes or modifications they need made to their permit during its term and to assist the department in keeping its records current and accurate.

§153.10 Review of Application

Subsection (a) informs the applicant for a service provider's permit of the department's process and that the applicant will be notified within 30 days of receipt of its status.

Necessity: To inform applicants that the department may take up to 30 days from when the department receives an application for a service provider's permit to review the application and determine whether an application is complete or insufficient.

Subsection (b) informs the applicant that the department will issue an Electronic Lien and Title (ELT) Service Provider Permit, form REG 672 (NEW 1/2018) once the application is determined by the department to be complete. The Electronic Lien and Title (ELT) Service Provider Permit, form REG 672, (NEW 1/2018) is incorporated into the regulation here.

Electronic Lien and Title (ELT) Service Provider Permit form, REG 672

The form REG 672 is a new departmental form and is designated by the department as the Electronic Lien and Title (ELT) Service Provider Permit. Upon approval by the department, an Electronic Lien and Title (ELT) Service Provider applicant will receive an Electronic Lien and Title (ELT) Service Provider Permit. The REG 672 contains the Electronic Lien and Title (ELT) Service Provider's permit number, expiration date, the Electronic Lien and Title (ELT) Service Provider's firm or business name and address, printed name of the department's ELT administrator, printed name of the permittee, signature of the department's ELT administrator, date, signature of the permittee, and date.

Necessity: To identify the department's form that serves as the Electronic Lien and Title service provider's permit and that the permit serves as evidence that the department has approved the service provider to participate in the program.

§153.12 Term of Service Provider's Permit

Subsection (a) sets the term for all Electronic Lien and Title service provider permits issued to be five years and clarifies the time frame.

Necessity: To make clear to the permit holder and the public how long the permit is valid for and how the time period is determined. By having service providers renew their permits every five years, the department's records will be able to be reconciled and updated if there is any information that has changed related to the service provider's business name, address, type of ownership, or contacts that was not updated previously.

Subsection (b) specifies that a service provider who chooses to seek renewal of their permit must do so at least 60 days prior to the expiration date and must submit a completed application (Electronic Lien and Title (ELT) Program Service Provider Application form, REG 670), to the department.

Necessity: To inform the service provider permit holder that it is their responsibility to initiate the renewal process and to make clear what is required to renew an expiring permit. Requiring the service providers to initiate the renewal of their permit at least 60 days prior to its expiration ensures that the department will have sufficient time to process the application and issue a new permit without the service provider's access to the department's system being interrupted.

§153.14 Refusal, Suspension, Revocation of Service Provider's Permit

Subsections (a), (a)(1), and (a)(2) state that the department reserves the right to suspend or revoke a service provider's permit, specifically for violating these regulations and/or for acts of fraud or putting the public at a privacy risk.

Necessity: To make clear that the department will take action against a service provider who violates the regulations and/or commits fraud and/or causes a privacy risk to the public.

§153.16 Demand for Hearing after Refusal or Non-Renewal

Subsection (a) allows for a service provider whose application for a permit has been refused by the department to request a hearing provided the request is made in writing within 60 days after being informed of the refusal.

Necessity: This subsection is necessary to give service provider applicants who have not been approved for a permit the requirements they must meet to in order to be granted a hearing.

Subsection (b) states that hearings will be governed by existing rules in the Government code.

Necessity: To make clear to the service provider requesting a hearing and the public that any and all hearings conducted will be done so with consistent rules.

§153.18 Reinstatement of Service Provider's Permit

Subsection (a) makes clear that if a service provider's permit is suspended by the department they must stop data transmission until corrective measures have been taken and the department lifts the imposed suspension.

Necessity: To make clear to the suspended service provider what is expected of them by the department.

§153.20 Lienholder's Permit

Subsection (a) informs lienholders that they must apply to the department, be approved to participate in the Electronic Lien and Title Program, and be issued a lienholder's permit by the department prior to filing any security interest electronically.

Necessity: To inform lienholders and the public what is required by the department for a lienholder to be able to file their security interests electronically with the department.

§153.22 Lienholder's Permit Application

Subsection (a) instructs lienholders who want to participate in the Electronic Lien and Title program to submit to the department a form REG 671, Electronic Lien and Title (ELT) Program Lienholder Application. The Electronic Lien and Title (ELT) Program Lienholder Application form, REG 671, (NEW 1/2018) is incorporated into the regulation here:

Electronic Lien and Title (ELT) Program Lienholder Application form, REG 671

The form REG 671 is a new departmental form consisting of nine sections.

The upper right-hand corner contains a 'DMV USE ONLY' box with spaces for the department to fill in the service provider name, the ELT ID number, and the approval implementation date.

In the application for area the applicant is required to indicate if they are applying for enrollment, requesting to change their service provider, or requesting to change their account name or address by checking one of the boxes provided. There is space provided for the applicant to include their ELT ID number when applicable. Also, there is a note asking for the applicant to include a copy of their business documents.

Section 1 – Lienholder Type

Section 1 requires the applicant to provide through checkboxes what type of lienholder they are (i.e. California Bank or Credit Union, Federal Credit Union, Thrift and Loan, etc.)

Section 2 – Lienholder Information

Section 2 requires the applicant to provide their lienholder name (to be displayed on titles), EIN, and their lienholder name (commonly known as).

Section 3 – Address Information

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Section 3 requires the applicant to provide their physical address and their mailing address (address used for titles).

Section 4 – Certification

Section 4 is the certification section and requires the Electronic Lien and Title Program lienholder applicant to provide, under penalty of perjury that the information provided to the department on this REG 671 is true and correct, the signature of their authorized agent, their lienholder name, the date, the printed name and title of their authorized agent, their telephone number, and their fax number. This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Section 5 – Service Provider Information and Signature

Section 5 requires the lienholder's service provider to provide their name, permit number, signature and title of their authorized agent, and the date.

Section 6 – General

Section 6 informs the lienholder permit applicant that they are agreeing that the department may terminate their participation upon giving 30 days written notice, that the lienholder's name may be abbreviated due to program need, and that the lienholder must add their assigned ELT ID number to titling documents.

Section 7 – Applicant Agreement

Section 7 requires the lienholder permit applicant to place their initials in the spaces provided indicating that they understand that they must comply with these regulations, that they will notify the department at least 30 days prior to any changes to their name, address, closure or sale of business, and that they consent to California courts having jurisdiction with Sacramento County Superior Court being proper venue.

Section 8 – Information Security Requirements

Section 8 contains two requirements related to information security that the lienholder permit applicant must agree to comply with.

Section 9 – Acknowledgement

Section 9 requires the applicant's authorized agent to sign, provide the lienholder name, date, print name, and title, acknowledging that they have read and understand the Terms and Conditions, and Security Policies stated above.

Necessity: This section will make clear to anyone who is applying for an Electronic Lien and Title Program lienholder permit how to apply to the department. Having a specific form as the application makes processing and record keeping efficient for the department.

Subsection (b) instructs lienholder permit holders to submit to the department an Electronic Lien and Title (ELT) Program Change Request form, REG 673 (NEW 1/2018) when requesting any

change or modification to their active permit. The Electronic Lien and Title (ELT) Program Change Request form, REG 673 (NEW 1/2018) is incorporated into the regulation here:

Electronic Lien and Title (ELT) Program Change Request form, REG 673

The form REG 673 is a new departmental form consisting of five sections.

The upper right-hand corner contains a ‘DMV USE ONLY’ box with spaces for the department to fill in the service provider name, the new ELT ID number, and the implementation date.

Section 1 – Current ELT Information

Section 1 requires the lienholder to provide their name, ELT ID number, and address.

Section 2 – New ELT Information

Section 2 requires the lienholder to provide their name and address.

Section 3 – Change Request

Section 3 requires the lienholder to initial that they understand that the change being requested will take effect with the next quarterly implementation.

Section 4 – Lienholder Certification

Section 4 is the certification section and requires the Electronic Lien and Title Program lienholder’s authorized agent to sign the form, under penalty of perjury that the information provided to the department on this REG 673 is true and correct, provide the lienholder name and date, print name and title of authorized agent, and to provide telephone number and fax number. This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Section 5 – Service Provider Information and Signature

Section 5 requires the lienholder’s service provider to provide their name, permit number, signature and title of their authorized agent, and the date.

Necessity: To inform lienholder permit holders which department form to use when requesting to make changes to their active permit and to assist the department in keeping its records current and accurate.

§153.24 Review of Lienholder’s Application

Subsection (a) informs the applicant for a lienholder’s permit of the department’s process and that the applicant will be notified within 30 days of receipt of its status.

Necessity: To inform applicants that the department may take up to 30 days from when the department receives an application for a lienholder’s permit to review the application and determine whether an application is complete or insufficient.

Subsection (b) informs the applicant that the department will issue an Electronic Lien and Title (ELT) Lienholder Permit, form REG 672 F. The Electronic Lien and Title (ELT) Lienholder Permit, form REG 672 F, (NEW 1/2018) is incorporated into the regulation here.

Electronic Lien and Title (ELT) Lienholder Permit form, REG 672 F

The form REG 672 F is a new departmental form and is designated by the department as the Electronic Lien and Title (ELT) Lienholder Permit. Upon approval by the department, an Electronic Lien and Title (ELT) Program lienholder applicant will receive an Electronic Lien and Title (ELT) Lienholder Permit. The REG 672 F contains the Electronic Lien and Title (ELT) Program lienholder's ELT ID number, the Electronic Lien and Title (ELT) Program lienholder's ELT name configuration and address, printed name of the department's ELT administrator, printed name of the permittee, signature of the department's ELT administrator, date, signature of the permittee, and date.

Necessity: To identify the department's form that serves as the Electronic Lien and Title lienholder's permit and that the permit serves as evidence that the department has approved the lienholder to participate in the program.

§153.26 Term of Lienholder's Permit

Subsection (a) specifies that a lienholder's permit does not expire and that the lienholder may withdraw from the program for one of the reasons stated in section 153.28 which will result in the department cancelling the permit.

Necessity: Since participation in the department's Electronic Lien and Title program is mandatory for lienholders, their permit to participate is non-expiring. Should a lienholder fall into one of the categories that would allow them to withdraw from the program the department will cancel their permit.

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

Subsections (a), (a)(1), and (a)(2) state that a lienholder may request to withdraw from the Electronic Lien and Title program for one of two reasons, mergers and acquisitions or going out of business.

Necessity: Since participation in the Electronic Lien and Title program is mandatory for lienholders, this section lists the only acceptable reasons to withdraw from the program.

Subsection (b) instructs lienholder permit holders to submit to the department an Electronic Lien and Title (ELT) Program Withdrawal Request form, REG 674 (NEW 1/2018), when requesting to withdraw from the program and have their permit cancelled. The Electronic Lien and Title (ELT) Program Withdrawal Request form, REG 674 (NEW 1/2018) is incorporated into the regulation here:

Electronic Lien and Title (ELT) Program Withdrawal Request form, REG 674

The form REG 674 is a new departmental form consisting of four sections.

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The upper right-hand corner contains a 'DMV USE ONLY' box with spaces for the department to fill in the service provider name, the ELT ID number, and the withdrawal date.

Section 1 – Lienholder Name

Section 1 requires the lienholder to provide their name, ELT ID number, and address.

Section 2 – Withdrawal Request

Section 2 has three items that the lienholder must agree to that are related to withdrawing from the program and a space for the lienholder's authorized agent to initial. Additionally, there is a note explaining that liens cannot be released using a REG 166 or REG 227.

Section 3 – Lienholder Certification

Section 3 is the certification section and requires the Electronic Lien and Title Program lienholder authorized agent to sign the form, under penalty of perjury that the information provided to the department on this REG 674 is true and correct, provide the lienholder name and date, print name and title of authorized agent, and to provide telephone number and fax number. This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Section 4 – Service Provider Information and Signature

Section 4 requires the lienholder's service provider to provide their name, permit number, signature and title of their authorized agent, and the date.

Necessity: To inform lienholder permit holders which department form to use when requesting to withdraw from the Electronic Lien and Title Program and to have their permit cancelled. Additionally, requiring submission of this form (REG 674) assists the department in keeping its records current and accurate.

Subsection (c) instructs any lienholder who is withdrawing from the program to convert titles that are held electronically to paper (Certificates of Ownership).

Necessity: To inform lienholders of the process they must complete when withdrawing from the program. Once the department cancels the lienholder's permit, the lienholder will not be able to access their titles electronically.

Economic Impact Assessment (Government Code section 11346.3):

The Electronic Lien and Title program has two different entities as participants. The first is the service providers who provide the software that allows the titling information to be transmitted to and from the department's database. Participation in the Electronic Lien and Title program is voluntary for service providers. The second entity is the lienholders who hold a financial interest in vehicle that are titled in California and participation in the program is mandatory for them. To assist the reader, the department has broken out the assessments below by each type of entity.

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

- **The Creation or Elimination of Jobs within the State of California:**
As these proposed regulations only establish an application and permit requirement for participation in the program by service providers and lienholders, the department does not anticipate that this proposed action will have any impact on the creation or elimination of jobs within the State of California.
- **The Creation of New Businesses or the Elimination of Existing Businesses within the State of California:**
As these proposed regulations only establish an application and permit requirement for participation in the program by service providers and lienholders, the department does not anticipate that these proposed regulations will create new businesses or eliminate existing businesses in the State of California.
- **The Expansion of Businesses Currently Doing Business within the State of California:**
As these proposed regulations only establish an application and permit requirement for participation in the program by service providers and lienholders, these proposed regulations are unlikely to expand businesses within the State of California.
- **Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:** This proposed action will continue to benefit the health and safety of California residents and businesses as titling fraud will be reduced and consumers will be more protected. It is unlikely these proposed regulations will have any impact on the State's environment.

Additional Economic and Fiscal Impact Determinations:

The department has made the following additional determinations regarding economic and fiscal impacts associated with this proposed regulation:

- **Cost or savings to any State agency:** None.
- **Other nondiscretionary cost or savings imposed on local agencies:** None.
- **Cost or Savings in Federal Funding to the State:** None.
- **Cost Impact on a Representative Private Person or Business:** While the department does not anticipate a cost impact to the lending industry, the department does anticipate fiscal and economic benefits as they will no longer have to store and manage paper documents.
- **Effect on Housing Costs:** None.
- **Local Agency/School Districts Mandate:** The proposed regulation action will not impose a mandate on local agencies or school districts, or a mandate that requires

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reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code.

- **Small Business Impact:** This proposed action is likely to impact small businesses.

Departmental Determinations

Technical, Theoretical and/or Empirical Studies, Reports or Documents: None relied upon.

Benefits Anticipated from this Regulatory Action: The benefits derived from these proposed regulations are reduction in vehicle titling fraud.

Reasonable Alternatives, Including Any That Would Lessen Adverse Impact on Small Business: No alternatives were considered or presented, including any that would lessen any adverse impact on small businesses.

Alternatives Considered: No alternatives were considered that are less burdensome and equally effective at achieving these purposes.

Comparable Federal and State Regulations: There are no comparable federal or state regulations. Only the department is authorized to implement vehicle registration and titling programs with approved business partners.

Evidence Supporting Determination of No Significant Adverse Economic Impact on Business: The department believes the requirements contained in these proposed regulations have minimal economic impact on business and are economically insignificant in today's commercial setting.