

- SUBJECT:** Requiring notice to TxDOT to record lien discharges
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 9 ayes — Krusee, Phillips, Harper-Brown, Deshotel, Haggerty, Harless, Hill, Macias, Murphy
- 0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Will Harrell, American Civil Liberties Union of Texas)
- Against — Jeff Martin, Texas Independent Automobile Dealers Association
- On — Rebecca Davio, Texas Department of Transportation
- BACKGROUND:** Transportation Code, sec. 501.115. specifies the procedures for when a debt or claim secured by a lien has been satisfied. A lienholder is required, within a reasonable amount of time under Finance Code, sec. 348.408, to send a form created by the Texas Department of Transportation (TxDOT) to the owner or a designee of the owner. An owner who wants to obtain a new certificate of title reflecting the lien discharge can present the form along with the current title to the county assessor-collector, who would issue a new certificate.
- DIGEST:** CSHB 744 would amend Transportation Code, sec. 501.115 to add requirements for both the lienholder and TxDOT upon discharge of a lien. In addition to current requirements, a lienholder would be required to notify the agency by mail, e-mail, or fax of the discharge, which would be recorded in TxDOT's motor vehicle records. This log would serve as a backup record of the discharge of the lien in the event the owner lost the form certifying that change.
- The agency also would be required to update the form the lienholder is required to send the title holder to notify the owner of the requirement to apply for a new certificate of title without reference to the lien or else the owner would not receive a new certificate.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 744 would rectify a problem faced by vehicle owners who have paid off loans or otherwise rectified claims to discharge a lien on their vehicle titles. Many vehicle owners do not know that the signed certificate of title is the only verification that the lien has been paid off and can get stuck in a bureaucratic maze between their bank and the state in the event they lose the only piece of paper certifying the lien discharge. The bill would require a lien holder to notify TxDOT of a change in the lien status and also remind vehicle owners that they would not be automatically entitled to a new title reflecting the change in lien status.

The bill would allow the notice sent to TxDOT to serve as a backup for the vehicle owner and would have the added benefit of allowing TxDOT to maintain more updated ownership records. Owners who lose their certificate of title currently have to secure a release of lien letter from the original lien holder, which can be quite a burden for a vehicle that has changed hands between several owners.

Any potential for fraud under a new system would be similar to the potential under today's standards, in which a vehicle owner could forge a release of lien letter. TxDOT also would have the ability to determine the standard forms each lien holder sent and note any discrepancies that would suggest a fraudulent form.

**OPPONENTS
SAY:**

CSHB 744 would not solve the current problem because it would give lien holders additional work with little motivation to actually follow through with the added notification standards. A vehicle owner whose lien holder did not notify TxDOT of the lien discharge would be in the same situation as under current law. It would create a conflict in current standards because the bill does not define which standard would win out in the event a lien holder only notified TxDOT but did not send the vehicle owner a signed certificate of title. It also would create new potential for fraud, as a vehicle owner could doctor an e-mail, fax, or letter from a lien holder that could effectively discharge the loan.

NOTES:

The original version of HB 744 did not specify how a lienholder could notify TxDOT of a discharge of a lien and did not require the agency to record that notification, which in the substitute was designated as a backup in the event the owner lost the form certifying the discharge of the lien.

