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COMMITTEE REPORT

March 11, 2021

**H. 3884**

Introduced by Rep. Hiott

S. Printed 3/11/21--H.

Read the first time February 11, 2021.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3884) to amend the Code of Laws of South Carolina, 1976, by adding Section 50‑23‑125 so as to authorize the Department of Natural Resources to transmit certain documents, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

DAVID R. HIOTT for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑23‑125 SO AS TO AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES TO TRANSMIT CERTAIN DOCUMENTS ELECTRONICALLY FOR A CERTIFICATE OF TITLE, TO ALLOW FOR THE COLLECTION OF AN ELECTRONIC TRANSMISSION FEE, AND TO REQUIRE THE USE OF AN ELECTRONIC LIEN SYSTEM FOR BUSINESSES AND LENDERS ENGAGED IN THE SALE OF WATERCRAFT AND OUTBOARD MOTORS OR THE FINANCING OF WATERCRAFT OR OUTBOARD MOTORS; AND TO AMEND SECTION 50‑23‑140, RELATING TO THE PRIORITY AND VALIDITY OF LIENS UPON A CERTIFICATE OF TITLE FOR A WATERCRAFT OR OUTBOARD MOTOR, SO AS TO ALLOW FOR THE RETENTION OR DISCHARGE OF A LIEN ELECTRONICALLY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 23, Title 50 of the 1976 Code is amended by adding:

“Section 50‑23‑125. (A) In lieu of paper documents, the department is authorized to transmit and receive the following information through secure electronic means for a certificate of title:

(1) the title for a watercraft or outboard motor with any liens or security interests;

(2) to the first lienholder on the title, the addition of subsequent liens; and

(3) the discharge of a security interest or lien from a lienholder on the title.

The certificate of title record must contain the same information noted on a paper certificate of title. Upon receipt of the discharge of the final lien, a clear title must be printed and conveyed to the owner at the address on file with the department. The provisions of this section do not alter the priority of lienholders and encumbrances against a certificate of title. A duly certified copy of the department’s electronic record of the lien is admissible in a civil, criminal, or administrative proceeding as evidence of existence of the lien.

(B) The department is authorized to collect an electronic transaction fee not to exceed five dollars for each transaction from commercial parties who transmit or retrieve data from the department pursuant to this section. The fee collected by the department is an official fee and must be used to defray the expenses of the electronic lien program.

(C) Notwithstanding Sections 37‑2‑202 and 37‑3‑202, commercial entities and lenders who transmit or receive data from the department pursuant to the provisions of this section may collect an electronic transfer fee not to exceed five dollars for each transaction from the owners of watercraft or outboard motors. A fee charged by the department related to a titled watercraft or outboard motor for the purposes of transmittal or retrieval of this data is deemed an official fee as referenced in Sections 37‑2‑202 and 37‑3‑202.

(D) All businesses and commercial lenders who are regularly engaged in the business or practice of selling watercraft or outboard motors as a licensed dealer pursuant to this chapter or in the business or practice of financing watercraft or outboard motors shall utilize the electronic lien system to transmit and retrieve electronic lien information. The department shall maintain contact information on its website for service providers utilizing an electronic interface between the department, lienholders, and sellers of watercraft or outboard motors. The department must establish procedures to ensure compliance with the use of the electronic lien system and provide for valid exceptions as determined by the department.”

SECTION 2. Section 50‑23‑140(a) and (b) of the 1976 Code is amended to read:

“(a) If a lien or encumbrance is first created at the time of transfer, the certificate of title must be retained by or delivered to the lienholder or retained electronically or delivered to the lienholder electronically. All liens, mortgages, and encumbrances noted upon a certificate of title take priority according to the order of time in which they are noted on it by the department. All such liens, mortgages, and encumbrances must be valid as against the creditors of the owner of a watercraft or outboard motor, whether armed with process or not, and against subsequent purchasers of any such watercraft or outboard motor, or against holders of subsequent liens, mortgages, or encumbrances upon the watercraft or outboard motor.

(b) When a lien is discharged, the holder shall note that fact on the face of the certificate of title or discharge the lien electronically through the system prescribed by the department. If the lienholder holds a paper certificate of title, within thirty days of discharging the lien, the holder shall present it to the department.”

SECTION 3. The amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect on July 1, 2022.

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