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ELECTRONIC ODOMETER DISCLOSURE EDGES TOWARD REALITY

By Anthony Bush, Esq. and Grace Strom Power, Esq., Eckert Seamans Cherin & Mellott

The federal government has granted States the authority to allow Electronic Signatures ("E-Signatures") on Odometer disclosures, paving the way for paperless document processing. In December 2015, President Obama signed the Fixing America's Surface Transportation ("FAST") Act. Under the new law, each state can decide whether to allow electronic signature on odometer forms, which could speed up the finance and insurance process and reduce errors and fraud. The Odometer form was the last document for which the federal government still required an actual or wet signature from the consumer in the car buying process. It is now up to the States to implement this law in coordination with federal transportation officials.

This new law only gives States the authority to create their own electronic odometer disclosure programs, but each state must pass its own law. To date, no legislation to allow for such changes has been introduced in the MidAtlantic States. The law mandates that states can use digital methods for odometer readings and notices; however, the processes must set forth security measures to ensure accurate authentication. If implemented properly and with foresight, enacting a new law has the potential to not only allow for completely paperless odometer readings, but a completely paperless process when it comes to vehicle documentation including sales, registration, and titling. Again, the MidAtlantic States have yet to act on their new found authority. 🚗



NJ LEGISLATION ANTICIPATED FOR NJ MVC ALLEGED FRAUD AND MISCONDUCT

By Anthony Bush, Esq. and Grace Strom Power, Esq., Eckert Seamans Cherin & Mellott

In December 2015, the New Jersey State Commission of Investigation ("SCI") issued a scathing report with serious accusations against New Jersey Motor Vehicle Commission ("MVC") officials: "Gaming the System | Abuse and Influence Peddling in New Jersey's Used-Car Industry." The SCI alleged some officials have enabled used-car auto malls or "multi-dealer locations" to circumvent regulations and enforcement, allegedly resulting in fraud, unpaid taxes and "suspicious" financial transactions. Importantly, the report contains many recommendations that would significantly change oversight of the entire industry not just for dealers at multi-dealer locations. **We now anticipate that the Legislature will take up many of these reforms, with legislation expected to be introduced within weeks; however, we do not yet have any information on the specifics of the bill or bills.**

As reported previously, the SCI recommended reforms included: (1) removing licensing and oversight authority from the MVC's jurisdiction and giving it to the NJ Department of Law and Public Safety, Office of the Attorney General, Division of Consumer Affairs; (2) creating a wholesale-only license and exempting wholesale dealers from many of the requirements that strictly pertain to retail transactions (the MVC has discussed creation of such a license category for years); (3) requiring more financial disclosures as a condition of licensure; (4) expanding the basis for denying licenses for certain crimes; (5) adoption of a used car dealer bill of rights; (6) an end to "AS IS" sales; (7) a cooling off period with financial penalties for the purchase of used cars for less than \$40,000.00; (8) strengthening of NJ's lobbying disclosure requirements; (9) requiring licensees be in state residents. The scope of the expected legislation is not limited or bound by the SCI's proposals.

As we have previously noted, **dealers should expect that for now the MVC will vigilantly enforce existing regulations and statutes.** This is a good time to ensure your business practices are compliant with all regulatory requirements. 🚗



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