



September 10, 2007

Lauri Salsbury
Department of Transportation
Driver and Motor Vehicle Services Division
355 Capitol Street, N.E., Room 29
Salem, Oregon 97301

Re: Proposed OAR 735-020-0075

Dear Ms. Salsbury:

We represent the Oregon Bankers Association, a trade association the membership of which consists of the commercial and savings banks doing business in Oregon. Because banks and their subsidiary companies make many loans on automobiles and take security interests therein, the members of the Oregon Bankers Association have a significant interest in proposed OAR 735-020-0075. On behalf of the association, I have reviewed the proposed rule, and would offer the following comments:

1. OAR 735-020-0075 (1) (m) would define "Release" or "release of interest" as "the act of a lienholder, owner or security interest holder transferring his or her interest in a vehicle to another person by signing the release section on an Oregon title, a secure odometer form, a bill of sale or other document showing the transfer of the interest." It seems to us that from a technical standpoint, this is not entirely correct. When a security interest holder releases the vehicle from a security interest, it is not transferring it to another party, it is rather terminating the interest. On the other hand, when a secured party assigns the security interest to someone else (ie, where the loan secured by the security interest is being sold to a third party), or when an owner transfers ownership in the vehicle to another, the security interest holder or owner transfers the interest by assignment, or in the case of an owner, by signing off the title, rather than "releasing" the interest. We would suggest that the definitions would work better if:

(a) "Release" or "release of interest" was defined as "the act of a lien holder or security interest holder terminating his or her interest in a vehicle by signing the release section on an Oregon title, a secure odometer form, or other document showing the termination of the interest;" and

(b) A new definition of "Transfer" were included, to read: "'Transfer' means the act of a lien holder, owner or security interest holder transferring his or her interest in a vehicle to another person by signing the release section on an Oregon title, a secure odometer form, a bill of sale or other document showing the transfer of the interest."

2. The definitions of "Transferee" and "Transferor" in 735-020-0075 both refer to the transfer of ownership interests. "Ownership interest" is not defined. We assume it is limited to the interest of an owner, as opposed to the interest of a lien holder or security interest holder. If that is the case, we think the references to "ownership" interests limits the scope of these definitions too much, since the rest of the proposed rule applies to the transfer not only of ownership interests but of other interests, such as security interests. Accordingly, we believe "ownership" should be deleted from these two definitions.

3. Subsection (2) of the proposed regulation requires that upon the transfer of any interest in a vehicle, the transferor must release or assign in writing. (2)(d) requires that the release or assignment document must contain: "A statement or other indicator in the document that the vehicle was sold or ownership was transferred or released." This language doesn't fit where the document relates to the assignment or termination of a lien or security interest in the vehicle. In such cases, the vehicle is not being sold, and "ownership" in it is not being transferred or released. Subsection (2)(d) should be rewritten to state: "(d) A statement or other indicator in the document that the vehicle was sold, ownership was transferred or released, or a lien or security interest in the vehicle was assigned or released."

Thank you for taking our comments and suggestions into consideration in the rulemaking process. Please contact me if you have any questions.

Very truly yours,

Sherman, Sherman, Johnnie & Hoyt

By:


Kenneth Sherman, Jr.

KSj/ms

cc: Linda Navarro