

Vehicle Titling Issues Peer Exchange: UCOTA and Other Approaches

Hosted by the Wisconsin Department of Transportation Division of Motor Vehicles

October 16-17, 2007



WISCONSIN DOT
Wisconsin Department of Transportation Research & Library Unit

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Peer Exchange
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**Final Report by
CTC & Associates LLC**

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WisDOT DMV Peer Exchange

October 16 - 17, 2007

Introduction

The Wisconsin Department of Transportation Division of Motor Vehicles hosted a peer exchange on October 16-17, 2007 in Madison, Wisconsin. Representatives from Iowa DOT, Minnesota Department of Public Safety, Virginia DMV, the American Association of Motor Vehicle Administrators and the National Conference of Commissioners on Uniform State Law joined representatives from Wisconsin's vehicle dealers, lenders and consumer groups to share their thoughts and reactions to the Uniform Certificate of Title Act on day one. On day two the core group from Iowa, Minnesota, Virginia, Wisconsin and AAMVA discussed the titling and lien systems in each state, sharing issues and best practices.

This report highlights the key observations about UCOTA and its impacts, as well as opportunities for action at WisDOT that came out of the peer exchange discussions.

Objectives

The theme of this peer exchange centered on vehicle titling and lien issues. The topic of the first day of the exchange was UCOTA, which NCCUSL created to promote uniformity of vehicle titling laws among states. Discussions focused on the intent of various sections in UCOTA, how the language would affect the states' existing legislation and practices, and also how UCOTA would impact industry. All invited participants were present on day one. Key questions asked throughout the day included:

1. What does your industry like and/or dislike about UCOTA?
2. What issues does your group have that UCOTA addresses?
3. How does UCOTA address those issues?

The topic of the second day was each state's titling and lien systems, involving only representatives from the visiting states, WisDOT and AAMVA. Each state presented information about their own vehicle titling and lien systems, focusing on the following key questions:

1. How will UCOTA affect the workload in your state's titling offices?
2. Are there title and lien problems that UCOTA addresses for your state?
3. What are you doing now with regards to private sales? If your state is making a change in title and lien procedures, will it have any impact on private transactions in the future?

Throughout the two days, the WisDOT team hoped to learn more about UCOTA and how its enactment would affect both the DMV and related industries. The WisDOT team also wanted to learn best practices from other states and identify potential opportunities for improvement.

Participants

Visiting team members

- Jim Gurney, Vehicle Services, Virginia DMV
- Larry Ollila, Division of Vehicle Services, Minnesota Department of Public Safety
- LaVonne Short, Office of Vehicle Services, Iowa DOT

Peer exchange planning team

- Paul Bernander, DMV, Wisconsin DOT
- Anna Biermeier, DMV, Wisconsin DOT
- MaryKay Dodge, DMV, Wisconsin DOT
- Carson Frazier, DMV, Wisconsin DOT
- Linda Lewis, DMV, Wisconsin DOT
- Paul Nilsen, Office of General Counsel, Wisconsin DOT
- Chuck Supple, DMV, Wisconsin DOT
- Steve Sebestyen, AAMVA
- Kirsten Seeber, CTC & Associates LLC for Wisconsin DOT Research

Other peer exchange participants

- Ray Allen, Wisconsin Department of Financial Institutions
- Ruben Anthony, Jr., Office of the Secretary, Wisconsin DOT
- Karen Baetsen, Office of Policy, Budget and Finance, Wisconsin DOT
- Kristina Boardman, DMV, Wisconsin DOT
- Lisha Booker, VW Credit, Inc.
- Eric Englund, Wisconsin Insurance Alliance
- Mary Ann Gerard, Wisconsin Automobile & Truck Dealers Association
- Alvin Harrell, NCCUSL
- Lynne Judd, DMV, Wisconsin DOT
- Keith Kiser, AAMVA
- Crystal Lautenbach, Community Bankers of Wisconsin
- Daryll Lund, Community Bankers of Wisconsin
- Gina Meierbachtol, University of Wisconsin Consumer Law Litigation Clinic
- Sue Miller, Wisconsin Automobile & Truck Dealers Association
- Cheryll Olson-Collins, Wisconsin Department of Financial Institutions
- Rose Oswald Poels, Wisconsin Bankers Association
- Edwin Smith, NCCUSL
- Arlene Weinstock, VINtek



Pictured: Paul Nilsen, Paul Bernander, LaVonne Short, Anna Biermeier, Larry Ollila, Carson Frazier, Steve Sebestyen, Keith Kiser, Chuck Supple, Jim Gurney, Lynne Judd, Karen Baetsen, Linda Lewis

UCOTA Background and Expected Impacts

Background on UCOTA

- NCCUSL is a body where state representatives come together to create uniform state laws. In 2002, NCCUSL created a drafting committee to look at the issues of vehicle titling because they saw that the laws were very different among states.
- In 2005, NCCUSL finished UCOTA with some technical amendments made in 2006. NCCUSL is now interested in hearing what states think about UCOTA and if they might enact all or parts of it.
- One-third of UCOTA deals with the operations of the title office, while the other two-thirds deals with the rights of private parties and integration into the Uniform Commercial Code.

Expected changes in title offices to result from UCOTA

1. Conversion to a title to lienholder system.
2. The addresses of secured parties would be added to the face of the certificate of titles.
3. The titling office will accept and maintain files showing stolen property records.
4. The titling office will maintain files showing the receipt of security interest statements.
5. The titling office will maintain files for 10 years with a requirement to respond to inquiries within two days. States can revise these time periods or add transition periods.
6. Section 23 – Transferring ownership to a party who has not submitted the certificate of title. If a titling office is processing this kind of request, they must give a 45-day notice to the current owner whose ownership is being terminated.
7. Title brands have to be carried forward onto new titles.

Broad UCOTA impacts

- Advantages: Facilitating the movement to electronic systems, correlating title law to other states' laws, combating title fraud and creating an alternative to the federal regime.
- Barrier: Cost. A minority of states, including Wisconsin, would have to switch to a title to lienholder system. This move would have less of an impact in an electronic system environment.
- Barrier: Confusion to customers would be considerable since WI has had title to owner for so long.

Key Observations About UCOTA

NCCUSL views

- NCCUSL doesn't feel that any of the expected changes within title offices will have a huge impact and that most offices will only be faced with a few of the changes.
- If a state did not switch to a title to lienholder system, UCOTA would still work fine.
- NCCUSL would consider making some changes to UCOTA, if states determine that some critical problems mean the states couldn't enact it as drafted.

Industry views

- Lenders take the general view that a title to lienholder system is better than a title to owner system, as Wisconsin is currently. Dealers in Wisconsin, on the other hand, support a title to owner system.
- Both lenders and dealers support electronic systems to speed up the processing of titles and liens and to reduce their exposure to risk.
 - Lenders want to make sure that the correct lienholder information is on the title.
 - Dealers would like to see more information on the title.
 - UCOTA provides the legal authority for a state to switch to an electronic system and answers the legal questions that will arise as part of the process.
 - UCOTA is designed to be able to convert a written title to an electronic title and vice versa within a state.
- Lenders would like to see the correct lienholder information on vehicles titles, which UCOTA addresses via the filing of a security interest statement with the DMV by the lienholder.
- Lenders also like UCOTA because it advocates uniformity across states' laws and lenders typically conduct business across multiples states.
- The Wisconsin Auto and Truck Dealers Association would like Wisconsin to resolve the requirement that a dealer have a title before they can sell a vehicle, even if a lien has been paid. Getting the title from a lienholder can take some time and this holds up dealer inventory. An electronic system would speed up this process and 15-20 states use this type of system.
- UCOTA doesn't address the federal requirement for written odometer statements. Virginia has filed a petition with the National Highway Traffic Safety Administration for permission to use a wet, or electronic, signature. NHTSA is expected to publish this petition for public comment in the future, but no specific date has been set. When published, all states will have the opportunity to comment on it.
- Dealers and lenders would like UCOTA to better address perfection disputes, issues between creditors when a mistake has been made in the titling office and creditors names disappearing from titles.

- UCOTA provides some benefits to consumers. With regards to electronic systems, there are many people who will not have access to this type of system and a version of the paper system may have to be available for years. (UW Consumer Law Litigation Clinic)
- The Department of Financial Institution would like to see an expanded titling system to include boats, motor homes, etc.
- Individual states need to review UCOTA and determine how it would impact them if it was enacted. (American Association of Motor Vehicle Administrators). AAMVA thinks states might not want to enact UCOTA because of: 1) Funding – There are not enough resources, both in terms of money and people, to move forward with UCOTA and 2) Specific provisions within UCOTA that elicit concerns. For further AAMVA views on UCOTA, see Appendix B.
- AAMVA recommends that any state considering the implementation of UCOTA conduct a section-by-section comparison of UCOTA to their existing state laws.
- AAMVA's National Motor Vehicle Title Information System shows the entire history of a vehicle. This system is consistent with UCOTA.
 - When a vehicle owner moves to a new state, NMVTIS allows for the new state's DMV to verify the previous state's information on the vehicle.
 - Approximately 60% of the nation's vehicles are in NMVTIS with more being entered every day. The federal government is interested in this system because of the ability to track stolen vehicles and vehicles that have been affected by natural disasters, such as Hurricane Katrina.
 - Consumers, which include dealers and lenders, will have some access to the system. They will need Internet access and pay a reasonable fee payable via credit or debit card. NMVTIS would probably provide a consumer accessing the database general information and then direct them to the state where the information resides.
 - NMVTIS, when it is at its full capacity, will be sufficient for checking for stolen vehicle status and for title brands.

State views

- NCCUSL reported that Arizona made the switch to a title to lienholder state about six years because they wanted to implement electronic systems. South Dakota is currently working on this change.
- Almost half of the vehicle sales in Wisconsin are done privately, so it is important to know how UCOTA addresses these types of sales.
 - NCCUSL felt the innocent buyer needed the most protection in a sale. If, for example, an owner brings a vehicle to their dealer for service and the dealer sells the vehicle, UCOTA protects the buyer of that vehicle. The buyer doesn't have any idea of how well a vehicle has been maintained and, therefore, UCOTA protects their rights.
 - ❑ The DMV participants did not necessarily agree with NCCUSL or the provisions of UCOTA regarding protecting the buyer in the ordinary course of business and expressed a belief that the rights of the legal or registered owner also need to be considered.
 - Under UCOTA, in an electronic system, if a buyer does nothing to ensure the title record is fully correct, they are still protected as a buyer in the ordinary course of business.
- Under UCOTA, Wisconsin would get another 1 million pieces of paper with lien notifications from lenders. This is AAMVA's concern about workload for all states, because UCOTA envisions separate lien filings, not connected with title transactions.
- NMVTIS would eliminate the lag time between when a vehicle is sold between states and a title exists in both states because information is immediately uploaded to the system.

- There needs to be a way to track dealer's sales of vehicles and that the dealers have the authorization to sell those vehicles. AAMVA is working with the states that participate in NMVTIS to determine if an electronic MCO would be beneficial to them. If they say yes, then AAMVA will talk with the NICB to determine how much the data would cost and if the data could be uploaded to NMVTIS more frequently than once per month.
- It would be very helpful to have a benefit analysis on whether or not alternative programs, such as NMVTIS or ELT, satisfy UCOTA and also benefit Wisconsin through its involvement in them.
- Each state probably has statutes that restrict the release of information to a very limited amount, and UCOTA is probably at odds with these state statutes. NCCUSL may want to amend UCOTA to say that the release of information should follow the states' laws. In addition, the Federal Driver Privacy Protection Act (DPPPA) law, conflicts with UCOTA's section 28(2)c). NCCUSL may want to amend UCOTA to bring UCOTA into compliance with federal law.
- NCCUSL should add an amendment to UCOTA to change the language so that states check for stolen vehicle status at the time of titling, instead of having to keep stolen records reports.

State Titling Practices at a Glance

- Wisconsin
 - Title to owner state using a paper system.
 - Carries brands forward on titles.
 - Issues approximately 2 million titles per year with half of those having liens on them.
 - Has recently developed a lookup for financial institutions. See Appendix C: Wisconsin Titles With Liens for more details.
 - Has made the dealer title application electronic using CVR, e-MV11 or triVIN.
 - ❑ Budget and employee cuts were the main impetus for having dealer applications online. Many of the franchise dealers were already online, but providing a free online system enticed the smaller dealers to use the system also. Dealers have to pay a fee, and violate the law, if they send in an application by mail.
 - ❑ Not many lienholders are currently processing electronic titles. See Appendix D: Wisconsin Electronic Applications With Liens for more details.
- Iowa
 - Title to lienholder state using only paper.
 - No plans to go electronic any time soon. Moving to an ELT system is an issue for Iowa because the counties earn interest on money they receive from title transactions, as well as the tax on private sales of vehicles, until the money is transferred to the state. The counties don't charge a processing fee for transactions because they receive this float. Vehicles in Iowa are not subject to property tax, only a use tax. Residency determines the county in which a vehicle is titled.
 - Carries brands forward on titles.
 - Impact of UCOTA on Iowa would be minimal since they already do much of what is in the Act.
 - Has a database into which the counties input title data. See Appendix E: Iowa Titles With Liens for more details. Also see Appendix F: Security Interest Business Rules for more information on Iowa's procedures.

- Minnesota
 - Title to owner state.
 - Keeps their records for seven years.
 - Does not keep information on stolen vehicles or check for stolen status at the time of titling.
 - Carries brands forward on titles, but not on vehicles older than six years or on motorcycles.
 - Not a NMVTIS state but would like to be a part of the system.
 - Working on an electronic application system but it is not in place yet. See Appendix G: Minnesota Title and Lien Systems for further information.
 - Interested in the secured party numbers that Wisconsin provides to lienholders.

- Virginia
 - Title to lienholder state.
 - Moving toward fully electronic systems, as they anticipate that the Real ID Act will take up all of the time of their staff at the DMV offices.
 - Most dealers are online with the DMV and file their applications electronically. Dealers fill out the paperwork, record the information in the electronic system and then send the paperwork to the DMV at the DMV's expense. The ultimate goal is to have all dealers online and the DMV will develop their own e-titling program for small dealers. Eventually, the DMV would like all dealers to image their files and send them electronically.
 - Planning to develop an Internet application for individuals to report vehicle information to the DMV electronically.
 - Moving towards electronic print-on-demand temporary tags, but they are not there yet. Temporary tags are not issued for private sales; the new owner gets a trip permit via the Internet that is good for five days.

Takeaways

- Wisconsin DMV will seek legislation that makes an electronic record the priority record.
- AAMVA will help states make their own decisions on UCOTA in whatever way they can. AAMVA's concerns are about additional workload and costs the states would incur if they adopted UCOTA. Based on the discussions at the peer exchange, there are five sections of UCOTA (13, 17, 25, 26 and 27) that would require additional documents the titling offices would have to handle. These include security interest notification and termination, stolen vehicle reports and seller notification documents.
- AAMVA and the participating states share the view that the perceived benefits of UCOTA can be achieved without enacting it. The core elements of each state's title laws are similar enough that the premise of UCOTA (non-uniformity among state laws) is not a significant concern for DMVs. In addition, UCOTA does not address the peripheral issues that differ among states – for example, OWI laws, relationship of titling to registration and similar laws. Thus, UCOTA will not achieve uniformity with regard to these peripheral issues. All states and industry agree that electronic titling is a desirable outcome. However, while UCOTA does facilitate electronic titling, it is not necessary to achieve electronic titling.
- No immediate action needs to be taken by the states, but they will continue to ask questions and seek clarification and possible changes to UCOTA.

- Each state should conduct a critical analysis of what is in UCOTA in comparison to their existing state statutes. This is because UCOTA does not address the myriad of peripheral issues and connections of titling law to vehicle registration and other state laws. Every state must be clear about the implications of UCOTA with regard to other state laws.
- See Appendix H: Draft Legislation to Implement UCOTA in Wisconsin.

Action Items

Representatives from AAMVA agreed to carry out the following after the exchange:

- Provide a legislative contact in Arizona who can speak to why Arizona switched to a title to lienholder state so that they could implement electronic systems.
- In response to states' concerns about tracking dealer sales of vehicles and their authorizations to make those sales, AAMVA will ask the states that participate in NMVTIS if an electronic MCO would be beneficial to them. If they say yes, then AAMVA will talk with the NICB to determine how much the data would cost and if the data could be uploaded to NMVTIS more frequently than once per month.

Appendix A: Peer Exchange Agenda

Vehicle Titling Issues: UCOTA and Other Approaches WisDOT DMV Peer Exchange, October 16-17, 2007

<u>Tuesday, 10/16/07 – The Pyle Center, Rm. 213</u>		
8:00am – 8:10am	Ruben Anthony, Jr., Deputy Secretary, WisDOT	Welcome
8:10am – 8:20am	Carson Frazier, WisDOT DMV	Review agenda for both days.
8:20am – 9:00am	Edwin Smith and Alvin Harrell, National Conference of Commissioners on Uniform State Laws	NCCUSL representatives to speak on the issues that the Uniform Certificate of Title Act is attempting to address.
9:00am – 10:00am	All	Question and answer period.
10:00am – 10:15am		Break
10:15am – 11:00am 10:15am – 10:20am 10:20am – 10:25am 10:25am – 10:30am 10:30am – 10:35am 10:35am – 10:40am 10:40am – 10:45am 10:45am – 10:50am 10:50am – 10:55am 10:55am – 11:00am	WI Auto and Truck Dealers Assoc. WI Dept. of Financial Institutions WI Bankers Assoc. VINtek VW Credit Community Bankers of WI WI Insurance Alliance UW Consumer Law Litigation Clinic American Association of Motor Vehicle Administrators	Industry/consumer group representatives spend a few minutes explaining their interest in UCOTA.
11:00am - Noon	All	Industry/consumer group representatives discuss UCOTA, which issues are critical to them and those issues that are not critical. The discussion will be mainly focused on titling and lien issues.
Noon – 1:00pm	All	Lunch
1:00pm – 2:30pm	All	Industry/consumer group representatives continue to discuss UCOTA, which issues are critical to them and those issues that are not critical. The discussion will be mainly focused on titling and lien issues.
2:30pm – 2:45pm		Break

2:45pm – 3:15pm	All	Small group discussions to address the following questions: <ul style="list-style-type: none"> • What do you like and/or dislike about UCOTA? • What issues does your group have that UCOTA addresses? • How does UCOTA address those issues?
3:15pm – 5:00pm	All	Large group reconvenes to report back from their small group discussions. Review the big issues brought up during the day. This review will be the starting point for the next day when the state DMVs will discuss solutions.

Wednesday, 10/17/07 – The Pyle Center, Rm. 213		
8:00am – 8:10am	Carson Frazier, WisDOT DMV	Introduction and review of agenda.
8:10am – 10:00am	DMV representatives WI – Linda Lewis/Chuck Supple IA – LaVonne Short MN – Larry Ollila VA – Jim Gurney Questions and Discussion	DMV representatives give 10-minute presentations on their titling and lien programs.
10:00am – 10:10am		Break
10:10am - Noon	DMV and AAMVA representatives	DMV and AAMVA representatives discuss the UCOTA-related issues brought up on day one, their reactions and the possible solutions. The focus of this discussion is on solutions to titling and lien issues.
Noon – 1:00pm		Lunch
1:00pm – 2:00pm	DMV and AAMVA representatives Lynne Judd, Administrator, WisDOT DMV	DMV and AAMVA representatives continue to discuss the UCOTA-related issues brought up on day one, their reactions and the possible solutions. The focus of this discussion is on solutions to titling and lien issues.
2:00pm – 3:00pm	DMV and AAMVA representatives Lynne Judd, Administrator, WisDOT DMV	Group to discuss what participants learned from the peer exchange including best practices, lessons learned, potential opportunities, etc.

Evaluations for the Peer Exchange will be emailed to participants along with the Final Report.

Appendix B1: AAMVA Position Paper on UCOTA

BACKGROUND

In the early 1950's the National Conference of Commissioners on Uniform State Laws (NCCUSL) first developed a Uniform Certificate of Title Act that was approved in 1955. However, only 3 states fully implemented all its provisions, although some states have enacted portions of it.

The NCCUSL now believes a new Act is needed to provide uniformity in recording and discharging liens, and to recognize electronic certificate of title procedures. An overarching concern is closer alignment of these procedures with provisions of the Uniform Commercial Code. While all states have adopted the UCC, the NCCUSL believes its provisions on recording and discharging liens on other goods do not adequately address liens on vehicles.

In 2003, the NCCUSL began drafting a new Uniform Certificate of Title Act (UCOTA) that would standardize procedures among the states for issuing certificates of titles and recording liens on motor vehicles. A final draft was approved by NCCUSL membership in August 2005 and we are advised that a final version of their proposed UCOTA will be published in November 2005.

AAMVA INVOLVEMENT

The NCCUSL Drafting Committee asked several individuals and organizations, including AAMVA, to serve as "observers" during their meetings. Observers were allowed to ask questions, raise issues and provide information, but had no vote in any decisions by the Committee. Within the AAMVA Vehicle Registration and Titling Committee, a Working Group was formed to observe the NCCUSL meetings and operate as a liaison to AAMVA. Working Group members are Chair Scott Brummond (WI), Deb McCurley (WA), Doug Hooper (GA), Joe Owsiak (VA), Jon Acton (MD), Mike Alderman (FL), Alana Connick (FDI, Inc.), and Berta Phelps (Manheim Auto Auctions). During 2004-05, members of the Working Group participated as observers at several meetings of the NCCUSL Drafting Committee as did Larry Greenberg and Jim Nance of AAMVA staff.

AAMVA POSITION ON UCOTA

Soon, NCCUSL State Commissioners will begin working to have the UCOTA enacted into law. State titling procedures can only be improved through uniformity in recording electronic certificates of titles and liens, and the most recent UCOTA draft would provide a useful framework for accomplishing that purpose. However, AAMVA does not believe that our member motor vehicle administrators would support the enactment of the UCOTA in their states in the near term for two significant reasons. The first is an anticipated lack of jurisdictional funding needed to implement the changes and, secondly, higher priority issues now facing motor vehicle administrators. It is anticipated the costs to implement the UCOTA will be significant in most states. While actual costs will vary from state to state, all states must face competing demands and higher priorities for staffing, funding, and information technology resources. In particular, the resources needed to comply with the federally mandated Real ID Act will take priority over optional changes such as UCOTA.

Apart from concerns about resources and funding, however, AAMVA believes states will be opposed to enacting the UCOTA in its present form for substantive reasons. A number of its key provisions within the Act are contrary to existing principles, practices, and procedures that are widely used and well understood both by Motor Vehicle Administrators and by the public at large. Those changes, if enacted, would include:

1. Extensive retraining of DMV staff, other service providers, and dealers.
2. Requirements that states create a title and record a lien, without the signature or even consent of a buyer or transferee.
3. Requirements that a state record a lien without a title.
4. Imposition of specific time limits for a DMV to process a title application.
5. Necessity to record vehicle models on vehicle titles.
6. Limitations on states' authority to cancel certificates of title.
7. Added responsibilities to record when a vehicle is sold before the new owner applies for a certificate of title.
8. Elimination of requirement that a new owner apply for a certificate of title.
9. Added responsibility to record all previous title brands from other states for a vehicle, even where brands stated are not authorized under law of titling state.
10. Requirement that stolen vehicle reports become part of DMV database.
11. Provisions making liens effective even if title application is rejected.
12. Opportunities for more than one title to exist for the same vehicle simultaneously.
13. Subordination of rights of record owner to rights of "good faith purchaser."

AAMVA RECOMMENDATIONS

AAMVA recommends that all states:

1. Obtain a final copy of the UCOTA (AAMVA will notify Chief Administrators when a final version becomes available);
2. Discuss the UCOTA with NCCUSL Commissioners in their states leading any effort to enact the UCOTA in their state;
3. Review the UCOTA with legal counsel and all affected agencies to ascertain what UCOTA provisions are already present in state law;
4. Identify those UCOTA provisions not in state law that should be adopted; and,
5. Assess costs associated with implementation of those provisions.

For additional information regarding the UCOTA, please contact:

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Appendix B2: Further Analysis of AAMVA Concerns Regarding UCOTA

By Keith Kiser

October 2006

OVERVIEW

NCCUSL enacted the Uniform Certificate of Title Act (UCOTA) in August 2005. At that time, a small group of AAMVA staffers and members of the AAMVA Legal Services community undertook an analysis of UCOTA to determine its potential impact on DMV administrators. The analysis was intended to provide DMV administrators with an initial review of the Act, as well as bring possible fiscal and administrative concerns to their attention. Overall, the analysis identified a lack of staffing, funding, and information technology resources as potential impediments to implementation of UCOTA in the near future. In addition, the analysis identified thirteen (13) concerns in UCOTA that seemed to be departures from traditional DMV procedures or practices. Finally, the analysis contained five (5) recommendations for states as they prepared for the possible introduction of UCOTA in their state legislative process.

SUMMARY

After further analysis, along with a review of a paper presented by Alvin Harrell at the AAMVA Law Institute in August 2006, some of the thirteen (13) concerns identified in the initial AAMVA analysis may not be valid concerns. A review of each of the concerns is contained on the following pages. However, AAMVA continues to believe many of the identified concerns should be further analyzed by each DMV administrator to determine what impact, if any, they may have on that state's DMV operations. Additionally, AAMVA continues to believe that higher priorities for limited state funds, particularly the requirements of the REAL-ID Act, will make it extremely difficult for DMV administrators to obtain the necessary staffing, funding, and information technology resources to implement the provisions of UCOTA in the near future. Finally, AAMVA continues to believe the five (5) recommendations to all states regarding preparedness for UCOTA are valid and should be promptly acted on by all DMV administrators.

Analysis of Identified AAMVA Concerns

Extensive retraining of DMV staff, other service providers, and dealers

UCOTA, with commentary, is approximately sixty (60) pages in length and contains some significant departures from current DMV practices and procedures. Implementation of UCOTA would necessitate the retraining of all those persons, both in government and in the private sector, who are involved in motor vehicle transactions. Aside from DMV staff, privatized service delivery personnel, dealers, lenders, and the general public would need to be educated regarding the changes. As an example, the provisions of Sections 13, 14, 25, and 26 of UCOTA, regarding security interest statements, envision tasks and responsibilities not generally associated with current DMV procedures and requirements.

Requirements that states create a title and record a lien without the signature or consent of a buyer or transferee

After further review, there is not a specific requirement that states create or record a lien without the signature of the buyer or transferee. However, Section 21 of UCOTA provides for the transfer of ownership of a vehicle by a "secured parties transfer statement". Section 21(a-6) provides this can be

done without the possession of the previously issued written certificate of title. Additionally, Section 25 of UCOTA relates to the filing of a security interest statement, and Section 26 provides that a security interest statement is perfected when a security interest statement is received by the DMV. The signature of the owner, buyer, or transferee is not required on a security interest statement.

Requirements that a state record a lien without a title

Sections 25 and 26 provide that, regardless of who holds a certificate of title, or even if a vehicle is not covered by a title, a security interest (lien) may be perfected (See comment number 5 on page 36). Section 14(c) requires the files maintained by the DMV contain information on any security interest statement filed with the DMV.

Imposition of a specific time limits for a DMV to process a title application

Section 15(b) provides that a written certificate of title should be provided in a “reasonable” period of time and suggests, but does not specifically require, that reasonable could be fifteen (15) business days. UCOTA is written in such a way that state legislatures would have the discretion to insert an appropriate number of days when they enact UCOTA. The net effect is that enactment of UCOTA would include some determination of the maximum time allowed to process an application for a certificate of title. Based on past experiences, it is reasonable to assume that not all states will always be able to meet a legislatively imposed deadline.

Necessity to record vehicle model on vehicle titles

A further review of Section 9(b-3) indicates the need to record vehicle model, as well as other data fields, will be determined by the states but does not make it a requirement.

Limitations on states’ authority to cancel certificates of title

Section 10(d) provides that a state may cancel a certificate of title only for reasons that would have allowed it to reject the original application for the title or for another provision in UCOTA. However, many states have laws that require them to cancel a certificate of title subsequent to its creation. As an example, there are laws that require the cancellation of a title for failure to maintain child support payments, pay library fines, failure to pay outstanding parking tickets, and failure to maintain a vehicle in a mechanically fit manner. If the applicant or vehicle were not in violation of these requirements at the time the vehicle was originally titled, or if these statutory reasons for subsequent cancellation of a title are not part of this act, it appears UCOTA limits the authority of states to cancel a certificate of title.

Added responsibility to record when a vehicle is sold before the new owner applies for a certificate of title

Section 13 specifies that a DMV may accept a submission of information related to a vehicle even if an application for a certificate of title has not been made. Although it appears states could also not accept a submission of information, office procedures would have to be established on how such submissions are handled, and a record of any rejection would undoubtedly need to be maintained.

Section 14 requires the maintenance of and access to files that relate to any record received that relates to a vehicle. It appears the submission of information contemplated in Section 13 meets the definition of “record” as defined in Section 2.

Section 17 provides that either the transferor or the transferee may deliver a signed record to the DMV related to the transfer of ownership of a vehicle without filing an application for a certificate of title. It appears the requirements of Section 14 would apply to any notice received under Section 17. Section 25(d) specifies that DMVs must maintain records of any security interest statement that is filed under the provisions of Section 25.

Each of the above requirements exceeds current procedures and requirements in some or all states.

Elimination of requirement that a new owner apply for a certificate of title

There does seem to be a specific requirement that the purchaser of a vehicle submit an application to title the vehicle. Section 9 provides the requirements for the content of an application for a certificate of title, and Section 17 provides that either a transferor or a transferee may provide notice of the ownership change to the DMV. However, there appears to be no statutory requirement that an application for a certificate of title must be made as is found in most state titling laws today. If UCOTA is intended to replace current state titling laws, a provision requiring transferees to apply for a certificate of title needs to be added.

Added responsibility to record all previous title brands from other states for a vehicle, even when brands stated are not authorized under the laws of the titling state

Section 11(a-3) requires that a certificate of title for a vehicle include all brands covering a vehicle, including all previously records brands in other states. In addition, Section 14(c) requires the files maintained by the DMV contain all title brands.

These requirements would be additional responsibilities for most states as they currently do not record all brands from all states. Most states record only those brands from a previous state if it is also a required brand within their own state. As an example, some states record brands such as “former taxi”, “former police car”, and “salt-water damaged”. If the next titling state does not use the same brands, or have similar brands, the non-conforming brands are generally not records on subsequent certificates of title. Many states have statutory limits on what brands can be placed on their certificates of title, and from a practical standpoint, there may not be physical space on a certificate of title to record the multitude of brands that may apply to a vehicle.

Requirement that stolen vehicle reports become part of the DMV database

Section 14(c) requires that stolen property reports be included in the files maintained by the DMV.

Provisions making liens effective even if title application is rejected

Although there is no specific provision in UCOTA related to this concern, Sections 25 and 26 provide that, regardless of who holds a certificate of title, or even if a vehicle is not covered by a title, a security interest (lien) may be perfected (See comment number 5 on page 35).

Opportunity for more than one title to exist for the same vehicle at the same time

Section 22 provides for the use of a “transfer-by-law statement” in lieu of the written certificate of title for a vehicle (Section 22(a) C(ii), and requires the DMV to issue a new certificate of title (Section 22(b-5). Although Section 22 also provides the DMV shall cancel the old certificate of title, the opportunity for two certificates of title to exist at the same time still exists.

Subordination of rights of record owner to rights of “good faith purchaser”

While the provisions of UCOTA related to purchasers and buyers “in ordinary course of business” may be consistent with provisions of UCC, they may not be consistent with policies, procedures, and laws currently administered by DMVs. As an example, a vehicle owner who consigns a vehicle for sale to a dealer but does not get paid by the dealer, would seem to have his rights to the vehicle subordinated by the rights of the good faith purchaser.

Additional identified concerns

While conducting this follow-up review, some additional concerns were identified. They are:

1. Section 9(b-7) requires a transferee’s application for certificate of title include the physical and mailing address of the transferor, the sales price, if any, and the date of sale. The requirement for the transferor’s addresses is generally not a DMV requirement at this time, and the purchaser may also have difficulty obtaining this information, particularly if the purchaser is not aware of the requirement at the time of purchase. The requirement for the sale price, while needed by some states for taxation purposes, is not needed by all states and would require the applicant provide information that may not be needed by the DMV.
2. Section 27 requires a secured party to deliver to the DMV a termination statement indicating they no longer have a security interest in a vehicle. The DMV is then required to record the date of delivery to the office and change its records to indicate the secured party no longer has a security interest in the vehicle. These requirements are contrary to existing practice in many states where it is generally the obligation of the vehicle owner to submit a certificate of title to record or discharge a lien from the DMV files.
3. Section 28 requires the maintenance of records related to the filing of security-interest statements and termination statements. These are records not currently filed with most DMVs and create additional recordkeeping requirements.

Appendix B3: NCCUSL's Response to AAMVA Regarding UCOTA

National Conference of Commissioners on Uniform State Laws

211 East Ontario Street, Suite 1300, Chicago, IL 60611 PH: 312/915-0195 FX: 312/915-0464 www.nccusl.org

January 22, 2007

Mr. Keith Kiser
Vice President
American Association of Motor Vehicle Administrators 21 13 N.
9th Street
Bismarck, ND 58501-1846

Re: Uniform Certificate of Title Act Dear Keith,

This letter contains NCCUSL's initial response to the concerns about the Uniform Certificate of Title Act expressed in the draft document that you so graciously shared with us last September. The letter sets forth your concerns in normal font, followed by our responses in italics. The responses are largely explanatory in nature and are not intended to suggest a negotiating position or bottom line. We want to work with AAMVA to reform and modernize the states' laws governing certificates of title, and we would like to continue our dialogue after you have had a chance to read and consider this letter.

Extensive retraining of DMV staff, other service providers, and dealers

UCOTA, with commentary, is approximately sixty (60) pages in length and contains some significant departures from current DMV practices and procedures. Implementation of UCOTA would necessitate the retraining of all those persons, both in government and in the private sector, who are involved in motor vehicle transactions. Aside from DMV staff, privatized service delivery personnel, dealers, lenders, and the general public would need to be educated regarding the changes. As an example, the provisions of Sections 13, 14, 25, and 26 of UCOTA, regarding security interest statements, envision tasks and responsibilities not generally associated with current DMV procedures and requirements.

Although the official version of UCOTA is some sixty pages in length, when it is reduced to statutory type size and spacing and the comments are excluded, it probably does not exceed the length of the statutory text it will replace. Although any commercial law statute will of necessity be complex, UCOTA is far clearer and more precise than the law it replaces, and it is drafted to interrelate smoothly with relevant provisions of the Uniform Commercial Code.

Those sections of UCOTA with a direct impact on the office generally do not create new burdens. For example, Sections 13-14 and 25-26 are relatively simple in terms of the duties they impose on the office and, with only a few exceptions, are consistent with current title office practices. The exceptions were created by the drafting committee pursuant to a broad consensus among the committee members and its advisors and observers, and they likely will become necessary in the future one way or another, even if UCOTA is not enacted. The movement to electronic certificates also will continue with or without UCOTA (which facilitates but does not mandate the use of such certificates), and thus the training costs associated with this movement should not be attributed to UCOTA.

NCCUSL recognizes that any change in an established legal regime involves retraining but believes that the advantages of UCOTA make the burdens associated with retraining worthwhile. Assuming the availability of resources, NCCUSL is prepared to assist as AAMVA deems appropriate in the development of training materials.

Some education of dealers and lenders may also be needed, but not much. The primary changes will relate to electronic certificates of title. It should be noted that dealers and lenders generally favor UCOTA because it solves many problems for them even though they recognize that the transition will impose some burdens. The fact that UCOTA is seen by such entities as an important step forward in the law should provide an incentive for AAMVA to support it as these are key constituencies of state title offices.

The general public will not need training, as UCOTA is consistent with existing practices and indeed reinforces them by clarification. UCOTA also includes some new consumer protections which will automatically protect consumers without the need for additional diligence on their part.

Requirements that states create a title and record a lien without the signature or consent of a buyer or transferee

After further review, there is not a specific requirement that states create or record a lien without the signature of the buyer or transferee. However, Section 21 of UCOTA provides for the transfer of ownership of a vehicle by a "secured parties transfer statement". Section 21 (a-6) provides this can be done without the possession of the previously issued written certificate of title. Additionally, Section 25 of UCOTA relates to the filing of a security interest statement, and Section 26 provides that a security interest statement is perfected when a security interest statement is received by the DMV. The signature of the owner, buyer, or transferee is not required on a security interest statement.

As noted in the AAMVA draft, UCOTA does not specifically require that states create or record a lien without the signature of the buyer or transferee. Regarding Section 21, which deals with secured party transfer statements, . see the later discussion under the topic heading "Opportunity for more than one title to exist for the same vehicle at the same time, " which focuses on transfer-by-law statements under Section 22 but also discusses secured party transfer statements.

Regarding the concern that no signature is required on a security interest statement, it should be noted that this is already the law for financing statements in all states pursuant to Article 9 of the Uniform Commercial Code and that we understand that it is also a common practice in many DMV offices. The rationale for not requiring a signature is to facilitate electronic filings, where the imposition of an electronic signature requirement might be costly and inefficient.

Requirements that a state record a lien without a title

Sections 25 and 26 provide that, regardless of who holds a certificate of title, or even if a vehicle is not covered by a title, a security interest (lien) may be perfected (See comment number 5 on page 36). Section 14(c) requires the files maintained by the DMV contain information on any security interest statement filed with the DMV.

Please see the later discussion under the topic heading "Provisions making liens effective even if title application is rejected."

Imposition of specific time limits for a DMV to process a title application

Section 15(b) provides that a written certificate of title should be provided in a "reasonable" period of time and suggests, but does not specifically require, that reasonable could be fifteen (15) business days. UCOTA is written in such a way that state legislatures would have the discretion to insert an appropriate number of days when they enact UCOTA. The net effect is that enactment of UCOTA would include some determination of the maximum time allowed to process an application for a certificate of title. Based on past experiences, it is reasonable to assume that not all states will always be able to meet a legislatively imposed deadline.

The Section 15(b) requirement applies only to a request for a written certificate. If there is a loan on the vehicle, this request can only come from the secured party, who by all accounts has every reason not to make such a request. Therefore, it should be very rare for a section 15(b) request to be made. In addition, the section does not determine the maximum time for processing an application; rather, it only comes into play after the written certificate is created. Therefore, the additional burdens on the office should be less than perhaps are understood by AAMVA.

Moreover, the number of days is in brackets because the drafting committee understood that the time limit might be different for different states. It is assumed that the office in each state will work with the legislature to determine an appropriate time period.

Necessity to record vehicle model on vehicle titles

A further review of Section 9(b-3) indicates the need to record vehicle model, as well as other data fields, will be determined by the states but does not make it a requirement.

No response since this concern has been satisfied.

Limitations on state's authority to cancel certificates of title

Section 10(d) provides that a state may cancel a certificate of title only for reasons that would have allowed it to reject the original application for the title or for another provision in UCOTA. However, many states have laws that require them to cancel a certificate of title subsequent to its creation. As an example, there are laws that require the cancellation of a title for failure to maintain child support payments, pay library fines, failure to pay outstanding parking tickets, and failure to maintain a vehicle in a mechanically fit manner. If the applicant or vehicle were not in violation of these requirements at the time the vehicle was originally titled, or if these statutory reasons for subsequent cancellation of a title are not part of this act, it appears UCOTA limits the authority of states to cancel a certificate of title.

We might be able to amend UCOTA to permit cancellation for a reason set forth in another statute of the state.

Added responsibility to record when a vehicle is sold before the new owner applies for a certificate of title

Section 13 specifies that a DMV may accept a submission of information related to a vehicle even if an application for a certificate of title has not been made. Although it appears states could also not accept a submission of information, office procedures would have to be established on how such submissions are handled, and a record of any rejection would undoubtedly need to be maintained.

Section 14 requires the maintenance of and access to files that relate to any record received that relates to a vehicle. It appears the submission of information contemplated in Section 13 meets the definition of "record" as defined in Section 2.

Section 17 provides that either the transferor or the transferee may deliver a signed record to the DMV related to the transfer of ownership of a vehicle without filing an application for a certificate of title. It appears the requirements of Section 14 would apply to any notice received under Section 17.

Section 25(d) specifies that DMVs must maintain records of any security interest statement that is filed under the provisions of Section 25.

Each of the above requirements exceeds current procedures and requirements in some or all states.

The reading of UCOTA is correct although, with respect to Section 17, the transferee as the new owner should still be submitting an application for a certificate of title for the vehicle.

UCOTA does provide for the office to keep and maintain in accessible form, subject to the enacting state's public records requirements, records relating to the creation and transfer of the certificate of title for a motor vehicle. The reasons for the record-keeping requirements relate to facilitating vehicle taxation, law enforcement and the intent of the transferor and transferee when the transferor sells the vehicle but the transferee does not timely apply for a new certificate of title. The transferor will want the public record to show, for liability purposes, that the transferor no longer claims an interest in the vehicle.

The question raised is whether the record keeping requirements of UCOTA are unduly burdensome on the office. The drafting committee did not believe this to be the case given that, as pointed out, there is no requirement in Section 13 for the office to accept submission of information under that section and since other records - such as those relating to security interests (notations of liens on certificates of title) - would appear to be routinely kept by the office. If the drafting committee was mistaken and there are areas in which the record-keeping requirements are unduly burdensome on the office, it would be helpful for NCCUSL leadership to know so that it could address areas in which that may be the case.

Added responsibility to record all previous title brands from other states for a vehicle, even when brands stated are not authorized under the laws of the titling state

Section 11(a-3) requires that a certificate of title for a vehicle include all brands covering a vehicle, including all previously records brands in other states. In addition, Section 14(c) requires the files maintained by the DMV contain all title brands.

These requirements would be additional responsibilities for most states as they currently do not record all brands from all states. Most states record only those brands from a previous state if it is also a required brand within their own state. As an example, some states record brands such as "former taxi", "former police car", and "salt-water damaged". If the next titling state does not use the same brands, or have similar brands, the non-conforming brands are generally not records on subsequent certificates of title. Many states have statutory limits on what brands can be placed on their certificates of title, and from a practical standpoint, there may not be physical space on a certificate of title to record the multitude of brands that may apply to a vehicle.

UCOTA should not be onerous given that current practice is to record brands from the state of the administrative office and from previous states if the brand from the previous state is also a recognized brand within the administrator's state. In the case of a brand from another state that is not a recognized brand, Section 11 (c) permits the use of the phrase "Previously branded in (name of jurisdiction)." "

Requirement that stolen vehicle reports become part of the DMV database,

Section 14(c) requires that stolen property reports be included in the files maintained by the DMV.

Please see the prior discussion under the topic heading "Added responsibility to record when a vehicle is sold before the new owner applies for a certificate of title, " especially the last paragraph of that discussion.

Provisions making liens effective even if title application is rejected

Although there is no specific provision in UCOTA related to this concern, Sections 25 and 26 provide that, regardless of who holds a certificate of title, or even if a vehicle is not covered by a title, a security interest (lien) may be perfected (See comment number 5 on page 35).

Under the Uniform Commercial Code, a security interest must generally be perfected by the filing of a financing statement. U. C. C. Section 9-310(a). However, if the goods are subject to a state certificate-of-title act, the filing of a financing statement is neither necessary nor effective [U.C.C. Sections 9-310(b)(3), 9-311(a)(2)] unless the goods are inventory held for sale or lease, or actually leased, by a person in the business of selling goods of the kind. U. C. C. Section 9-311(d). The provisions in UCOTA that govern the filing of a security-interest statement are designed to parallel, to the extent practicable, the Article 9 rules that govern the filing of a financing statement.

In most instances, a security interest will be perfected when the owner files an application for a certificate of title that indicates a security interest. See UCOTA Sections 2(a)(27)(B) (application that indicates security interest functions as security-interest statement), 9(b) (4) (application must indicate all security interests known to owner). There are instances, however, in which a secured party will need to perfect a security interest even though there is not a pending application for a certificate. For example, suppose a debtor acquires a certificate of title in State A, then moves to State B and applies for a certificate in that state, fraudulently claiming that the original certificate has been lost and that there are no liens on the vehicle. Under U. C. C. Section 9-303 and UCOTA Section 4, the law governing the secured party's perfection ceases to be State A and becomes State B when the application is made in that state, and the secured party has four months to perfect in

State B or it will become unperfected as to certain purchasers for value. U. C. C. Section 9-316(e). If the secured party learns of the move late in the four-month period, or if the debtor will not cooperate, the secured party may not have time to go through a process of having the title surrendered so that it can be reissued showing its lien. It makes sense to have a simplified process for the secured party to register its interest with the state and thereby obtain perfection. This example is illustrative and is by no means the only circumstance in which it is important to be able to perfect a security interest apart from an application for title.

However, there is no need to be concerned that "stray" security interest statements may float into the office. Under UCOTA Section 25(b)(4) the office may reject a security-interest statement if it "cannot identify a file of the office, certificate of title, or application for a certificate of title to which the security-interest statement relates."

Opportunity for more than one title to exist for the same vehicle at the same time

Section 22 provides for the use of a "transfer-by-law statement" in lieu of the written certificate of title for a vehicle (Section 22(a) C(ii), and requires the DMV to issue a new certificate of title (Section 22(b-5). Although Section 22 also provides the DMV shall cancel the old certificate of title, the opportunity for two certificates of title to exist at the same time still exists.

The rule set forth in Section 22 is similar to the rule in Section 21 covering a secured party's transfer statement, which is already the law in every state. U. C. C. Section 9-619(a) provides that a secured party may sign a record stating that the debtor is in default on an obligation secured by titled goods and that the secured party has, through foreclosure, transferred the vehicle to a transferee. The office is then required to cancel the old certificate and issue a new one. Section 21 of UCOTA provides for what is essentially the same process, and Section 22 expands the concept beyond the foreclosure context.

It is true that there is a risk that there may be two certificates outstanding at the same time, although that risk is reduced somewhat by the requirement that the old certificate be canceled. The situations described in Sections 21 and 22 are not the only contexts in which there can be two certificates in existence at the same time, and UCOTA and the Uniform Commercial Code contain rules that protect parties who buy in reliance on a clean certificate of title that does not indicate that there may be unstated liens against the vehicle. In fact, UCOTA ameliorates the problems of buyers who rely on clean certificates in that it extends the rule of U. C. C. Section 9-337 protecting innocent buyers in the interstate context to innocent buyers where the context is purely intrastate. UCOTA Section 19(b).

Subordination of rights of record owner to rights of "good faith purchaser"

While the provisions of UCOTA related to purchasers and buyers "in ordinary course of business" may be consistent with provisions of UCC, they may not be consistent with policies, procedures, and laws currently administered by DMVs. As an example, a vehicle owner who consigns a vehicle for sale to a dealer but does not get paid by the dealer, would seem to have his rights to the vehicle subordinated by the rights of the good faith purchaser.

This concern appears to be in reference to UCOTA Section 19(c), which provides protection for a buyer in ordinary course of business to whom a certificate of title is not executed. This occurs sometimes in the sale of used vehicles, where the dealer fails to obtain the certificate from its seller and then sells the vehicle to a buyer and promises that the title will be forthcoming later. In such cases, the general rule of the Uniform Commercial Code is that the buyer takes free of any security interest, and quite a few courts have so held in the context of titled goods. There have, however, been some cases that have read state certificate-of-title laws to reach an opposite result.

The Code rule properly balances the interests of secured parties and innocent buyers. Note first that to qualify for protection the buyer must be a buyer in ordinary course of business, a term that is defined in UCOTA Section 2(a)(2). To qualify, the buyer must be in good faith, must not know that the sale violates the secured party's rights, must buy from someone in the business of selling goods of the kind (i.e., a dealer), must take possession of the vehicle, and must give present value. The rule does not protect other secured parties or any person other than a buyer who meets this exacting definition. Protecting the innocent buyer from the secured party in this contest promotes commerce and is a rule secured lenders have lived with since the inception of the U.C.C.

The concern expressed about the consignor is misplaced, at least if the vehicle was a consumer good in the hands of the consignor immediately before delivery to the consignee. That is because UCOTA Section 19(c) only applies if the consignor has a security interest as defined in Article 9 of the U. C. C. Article 9 gives security interest status to only to a "consignment" within the definition of that term in Article 9. The definition of consignment in Article 9 excludes consignments of goods which were consumer goods in the hands of the consignor immediately before delivery to the consignee. U.C.C. Section 9-102(a) (20(C). Absent Article 9 applying to the consignment, a consignor would likely be protected from even a buyer in ordinary course of business by the common law of bailments.

Additional identified concerns

While conducting this follow-up review, some additional concerns were identified. They are:

1. Section 9(b-7) requires a transferee's application for certificate of title include the physical and mailing address of the transferor, the sales price, if any, and the date of sale. The requirement for the transferor's addresses is generally not a DMV requirement at this time, and the purchaser may also have difficulty obtaining this information, particularly if the purchaser is not aware of the requirement at the time of purchase. The requirement for the sale price, while needed by some states for taxation purposes, is not needed by all states and would require the applicant provide information that may not be needed by the DMV.

These requirements are not central to the act. We could bracket sale price for those states that want it. With regard to the transferor's address, we could eliminate the requirement, bracket it, or possibly make it optional.

2. Section 27 requires a secured party to deliver to the DMV a termination statement indicating they no longer have a security interest in a vehicle. The DMV is then required to record the date of delivery to the office and change its records to indicate the secured party no longer has a security interest in the vehicle. These requirements are contrary to existing practice in many states where it is generally the

obligation of the vehicle owner to submit a certificate of title to record or discharge a lien from the DMV files.

Section 27 is modeled on a similar provision in Article 9 that permits a secured party, or anyone authorized by the secured party in a signed record, to file a termination statement relating to the financing statement. Under Article 9, the obligation is on the secured party to file the termination statement once the secured obligations are paid. The involvement of the debtor is not contemplated except in a case in which the secured party is obligated to file the termination statement but fails to do so, in which case the debtor is permitted to file the termination statement.

The procedure envisaged by Section 27 should not appear disruptive to existing practices for motor vehicle certificates of title. Even under those existing practices, presumably when the owner submits a certificate of title to the office to record a discharge of lien noted on the certificate of title, the consent or agreement of the secured party for the discharge must accompany the submission. UCOTA Section 27 merely permits that consent or agreement from the secured party to be given directly to the office.

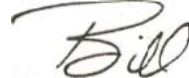
This procedure may be especially useful in cases where the certificate of title is electronic. Even if the certificate of title is written, however, the submission by the secured party will enable the office to terminate the security interest statement in the records of the office, thereby facilitating a concurrent or later submission by the owner of an application for a "clean" certificate of title.

3. Section 28 requires the maintenance of records related to the filing of security-interest statements and termination statements. These are records not currently filed with most DMVs and create additional recordkeeping requirements.

It is true that Section 28 imposes record keeping requirements, but security-interest statements and termination statements are critical to UCOTA and some additional record keeping is inevitable.

Thank you for taking the time to consider the information provided by this letter. Please let me know when it would be convenient for us to talk about the path forward.

Respectfully,



William H. Henning

cc: Howard J. Swibel
Leon M. McCorkle, Jr.
John A. Sebert

Appendix C: Wisconsin Titles With Liens

September 20, 2007

By mail

- Application (MV-1) comes in by mail with previous owner's title
- Wisconsin requires the lien be listed on MV-1 form in order to be listed on the record
- Each secured party has a unique number assigned by DMV
- All correspondence for secured party goes to one address
- \$4.00 fee for lien perfection
- DMV processes title approximately 5 weeks after receiving (this varies depending on staffing and workload)
- Title is sent to owner, with lien listed
- Paper lien confirmation is sent to financial institution after processing is complete (this notice is used to release the lien when sent to the owner upon payment of the loan) Notification of some kind is required by statute.

Note: For customers coming from other states that are title holding, WI issues a registration only and doesn't list the lien. A title isn't produced until the out of state lien has been paid and the title submitted to DMV.

Dealers

- Dealers must process their own applications for their customers, using DMV's electronic processing application or an authorized vendor, unless they are exempt by administrative rule.
- Dealers may clear liens with an affidavit on the title application (electronic or MV11).
- Titles are mailed to the customer through a batch process.
- Secured parties are sent the same confirmation notice when the processing has been completed. In some cases, processing may need to be completed in Madison.

Title Service Providers

www.dot.wisconsin.gov/drivers/vehicles/plates/walkin.htm

- There are dealers, businesses and government agencies that process title transfers for any customer, through an authorized vendor.

In person – Division of Motor Vehicle Field offices

www.dot.wisconsin.gov/about/locate/dmv/scmap.htm

- The only difference at DMV field offices is that the person walks away with their title if they have identification. Otherwise it is mailed.
- Only certain offices provide titling and registration services.

On-line lien verification for financial institutions/dealers

<http://on.dot.wi.gov/applicationdoc/lien/index.htm>

- Wisconsin has an on-line verification by VIN that displays the lienholder's name and the date the lien was listed (process date). It requires registration for a user ID.

Appendix D: Wisconsin Electronic Applications With Liens

September 20, 2007

Dealer electronic title applications via e-MV11, CVR and triVIN :

- Dealer can add a lien and/or release a previous lien when selling a vehicle by processing the title application electronically.
 - New lien holder receives paper lien notification from DMV. Nothing is sent to previous lien holder.
- NOTE: Dealer certifies to previous lien being paid off; otherwise is in effect selling encumbered property, and making a false statement to the Department, both felonies.

e-MV Agent:

Allows financial institutions to process lien transactions which include:

- Refinance transactions when the vehicle is already titled to the lender's customer. (Fee is \$4.00 to list a lien)
 - As part of this transaction the agent is allowed to release a previously listed lien if the Agent has paid of the previous loan or confirmed with the lender that it has already been paid. (Fee is \$4.00)
- If customer's title has been lost, the agent may also process a transaction for a replacement title in the customer's name. (Fee is an additional \$20.00 for replacement title.)
- Repossess a vehicle in Wisconsin and title the vehicle to the lien holder listed on the title. (Fee is \$45.00 to issue title to the reposessor.)
- Remove a lien from a vehicle record when it has been paid. (No fee)
 - No new title is issued.
 - The customer's title still shows the lien, but it is removed from DMV records.
 - Agent must notify the customer that their lien has been paid and removed from DMV records.
 - Customer can obtain a clear title by submitting their title to DMV.

Lien inquiry:

Allows VIN inquiry via DOT website by registered users - no personal information is given, just year/make/VIN of vehicle and lien holder name, address, and phone number if available.

Appendix E: Iowa Titles With Liens

By Mail

- Application for title is submitted to one of the 99 Iowa county treasurers via regular mail or over-the-counter. Official vehicles are titled through the Office of Vehicle Services.
- Liens must be listed on the title application form or on a separate SI application form.
- Each SI holder must provide either their FEIN or SSN.
- The lien notation fee is \$10.
- Normally, the county treasurer processes the title application and lien notation the same or next day after receipt of application and necessary supporting documents.
- When an SI is noted on the title, the title is sent to the SI holder.
- Currently Iowa has no ELT process in place.
- An SI can be perfected prior to issuance of the title to which the lien attaches.

Note: For customers coming from other states that are title holding, Iowa issues a registration only and doesn't list the lien. A title isn't produced until the out of state lien has been paid or the title with lien is surrendered to Iowa.

Dealers

- Dealers may mail or hand-deliver title applications to the appropriate county treasurer on behalf of their customers.
- Dealers are permitted to collect tax, title, and license fees which must be forwarded to the county treasurer.
- On-line verification of owner and SI holder information is available at <https://tpa.iamvd.com/login.aspx>. Use of this site requires each dealer to have a Privacy Act agreement form on file with the state. Users are assigned a secure ID.

Note: The website also provides a "Fee Calculator" so that dealers can determine the tax, title, and licensing fees that are due.

Lien Release

- A SI holder may use a SI cancellation form to note the cancellation of a security interest.
- The SI holder may also note the cancellation in a statement written on the secured party's letterhead.
- The SI holder is required to forward the original cancellation form or statement to the county treasurer.
- The SI holder must note the cancellation on the face of the title, attach a copy of the release form to the title and forward the title to the next secured party or to the owner.

Replacement Title

- If a customer's title has been lost, the owner may apply for a replacement with their county treasurer for a \$15 fee.
- If the title that is lost has an unreleased SI, then only the SI holder may apply for the replacement.
- As a fraud prevention measure, there is a five-day waiting period after the replacement application is received.

For more information regarding Iowa vehicle registration and titling laws, please visit our website at: <http://www.iamvd.com/ovs/index.htm>

Appendix F: Security Interest (SI) Business Rules (Iowa)

Perfecting a Security Interest – Transfer of ownership, title surrendered.

Example: Person purchases new vehicle from a dealer. The dealer forwards completed title application with SI, assigned certificate of title, other supporting documents, and appropriate fees to the county treasurer.

1. Either an Application for Notation of Security Interest form or a Title Application listing the SI shall be submitted to the county treasurer along with the \$10 SI notation fee.
 - ✓ The SI form or title application and fee must be submitted to the county where the title will be issued.
 - ✓ The SI form and title application require the disclosure of the SI holder's FEIN (if organization) or SSN (if individual) along with the VIN of the vehicle to which the SI applies.
2. The county treasurer must stamp the SI form or title application with the date it was received in the county office. This is the "date of perfection" regardless of when the SI is noted on the title.
3. The county treasurer will issue a new title "noting" the SI on the title and the "date of perfection." To issue the title with the lien, insert the lienholder's FEIN on the Title/Reg prequalifier or use the Relate Customer feature. Use VRT Help, if needed.
4. The new title is delivered to the first SI holder.

Perfecting a Security Interest – Foreign title with an SI, no ownership change.

Example: A person moves in from another state. The foreign title surrendered for issuance of an Iowa title contains an existing SI.

1. The county treasurer must carry forward (note) the SI to the Iowa title to be issued AND the date the SI was noted on the foreign title. This is the "date of perfection."
 - ✓ If a "date of perfection" is not on the foreign title, use the date of issuance of the foreign title as the "date of perfection."
2. Issue a new Iowa title with the SI. To issue the title with the lien, insert the lienholder's FEIN on the Title/Reg prequalifier or use the Relate Customer feature. Use VRT Help, if needed.
3. The Iowa title is delivered to the first SI holder.

Perfecting a Security Interest – Adding an SI to an existing Iowa title

Example: An owner has "clear" title to a vehicle, but obtains a loan using the vehicle as collateral. The lending institution sends a completed SI application form and lien fee to county treasurer for notation of their SI.

1. An Application for Notation of Security Interest form listing the SI shall be submitted to the county treasurer along with the \$10 SI notation fee.
 - ✓ The SI form and fee must be submitted to the county where the title was issued.
 - ✓ The SI form requires the disclosure of the SI holder's FEIN (if organization) or SSN (if individual) along with the VIN of the vehicle to which the SI applies.
2. The county treasurer must stamp the SI form with the date it was received in the county office. This is the "date of perfection" regardless of when the SI is noted on the title.

3. Upon receipt of the SI form, the county treasurer will issue a new title “noting” the SI and “date of perfection” on the new title.
 - ✓ The county treasurer must send a notice to the holder of the title to deliver it to the county treasurer within 5 days. The SI is considered “perfected” on the date of receipt of the SI form regardless of whether the original title is surrendered.
4. The Iowa title is delivered to the first SI holder.
5. Use the Add/Release SI function to add a lien to an existing title. See VRT Help on procedures to add a lien to an existing title.

Perfecting a Security Interest – Creating an SI for an untitled vehicle

Example: Person purchases a vehicle from a dealer. The SI holder immediately forwards the SI application and fee to the county treasurer, but the dealer fails to forward other supporting documents needed for title issuance.

1. An Application for Notation of Security Interest form or title application form listing the SI shall be submitted to the county treasurer along with the \$10 SI notation fee.
 - ✓ The SI form/title application and fee must be submitted to the county where the title will be issued.
 - ✓ The SI form requires the disclosure of the SI holder’s FEIN (if organization) or SSN (if individual) along with the VIN of the vehicle to which the SI applies.
2. The county treasurer must stamp the SI form with the date it was received in the county office. This is the “date of perfection” regardless of when the SI is noted on the title.
3. No title is issued until the necessary supporting documents are surrendered, but the SI is considered “perfected.” Put the lien information into the computer system by going to VRT-SI APPLICATION-ADD SI APPLICATION. No title will be issued. See VRT Help, if needed.

Appendix G: Minnesota Title and Lien Systems



Minnesota Department of Public Safety

Driver and Vehicle Services

Larry Ollila, Vehicle Services Program Director

GENERAL INFORMATION

- Minnesota titles include an attached NOTICE OF SALE post card and are printed on post card quality paper.
- Minnesota is a title-to-owner, central-issue state.

LIENS

- Lien holders receive a NOTICE OF LIEN PERFECTION/LIEN RELEASE card.
- Minnesota statutes allow an individual who owns a passenger vehicle to cancel liens on loans that are older than seven years if the owner paid the loan in full and is unable to locate the lien holder to obtain a release. The owner must send a letter to the lien holder by certified mail, return receipt requested, asking the lender for a lien release. The owner must present the department with the returned letter as evidence of attempted contact. This only applies to owners who are individuals.
- DVS piloted an e-lien program several years ago with only limited success. The program was not fully developed.

SERVICE

- Minnesota has a deputy registrar system for the delivery of motor vehicle title and registration services. There are 173 public and private agents appointed by the department to process motor vehicle title and registration work.
- There are no state-owned motor vehicle offices. However, customers may mail their motor vehicle work to the DVS central office for processing.
- Minnesota has an expedited program that processes certain types of title transactions for a fee of \$20. The title is issued within three business days of receipt of application.
- Minnesota recently began to pilot a program created by Computerized Vehicle Registration (CVR). It will enable licensed Minnesota dealers to issue registration and deputy registrar offices to authorize the issuance of a title.

OTHER

- Minnesota's current mainframe environment has only limited integration between motor vehicle and driver's license databases. Minnesota is in the process of a "pre-design" that will determine the needs and cost of replacing the existing mainframe with a relational database.
- A metro-county wheelage tax requires the department to collect the name of the county where the vehicle is kept.

Appendix H: Draft Legislation to Implement UCOTA in Wisconsin

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

October 31, 2006

ATTN: Senator Risser

Please review the attached draft carefully to ensure that it is consistent with your intent.

As a whole, the provisions of existing law related to vehicle titling are more detailed, more comprehensive, and clearer than those of UCOTA, which tend to be fairly general and sometimes vague.

I have attempted to identify all provisions of existing law that are inconsistent with UCOTA and repeal them. However, the process of meshing the provisions of UCOTA with provisions of existing law that are not in conflict with UCOTA was challenging. There may be significant problems for DOT in implementing the attached draft, in its present form. I highly recommend that the attached draft be reviewed by DOT to identify any such problems in implementation or administration that could be corrected by redrafting.

I have included a number of embedded notes in the attached draft.

The attached draft does not include any appropriation increase for DOT to cover the cost of implementing UCOTA. Do you want me to include such an appropriation increase?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary Legislative Attorney Phone:
(608) 261-6926 E-mail:
aaron.gary@legis.wisconsin.gov

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

1 **AN ACT *to repeal*** 342.06 (1) (a) to (c), 342.06 (1) (e) to (eh), 342.06 (1) (g), 342.06
2 (1) (j), 342.07 (1) (a) to (c), 342.09 (title), (1) and (2), 342.10 (1) (a) and (b), 342.10
3 (1) (d) and (e), 342.10 (2) (a) 1. and (b), 342.10 (6), 342.11 (1) and (2), 342.12 (1)
4 to (3), 342.13 (title), 342.13 (3), 342.15 (1) (a), (c) and (d) and (3), 342.17 (1) and
5 (2), 342.17 (4), 342.18 (title), (1) and (2), 342.19, 342.195, 342.20, 342.21, 342.22,
6 342.23 and 342.24 and 700.22 (3); ***to renumber*** 342.09 (3) and 342.15 (1) (bm);
7 ***to renumber and amend*** 342.08, 342.10 (2) (a) (intro.), 342.12 (4) (a), (b) and
8 (c), 342.13 (1), 342.17 (3), 342.18 (3) and 342.18 (4); ***to consolidate, renumber***
9 ***and amend*** 342.07 (1) (intro.) and (d); ***to amend*** 59.07 (2), 85.103 (2), 85.103
10 (6), 110.20 (6m), 218.0146 (3) (intro.), 340.01 (intro.), 340.01 (42), 341.08 (3),
11 341.08 (4), 341.10 (3), 342.05 (1) (a), 342.05 (1) (b), 342.05 (2), 342.05 (4), 342.06
12 (title), 342.06 (1) (d), 342.06 (1) (f), 342.065 (1) (a) and (b), 342.065 (3), 342.07
13 (2) (intro.), 342.08 (title), 342.10 (title), 342.10 (1) (intro.), 342.10 (1) (bm),
14 342.10 (3) (intro.), 342.10 (5), 342.11 (title), 342.11 (intro.), 342.11 (4), 342.12
15 (title), 342.15 (title), 342.15 (2), 342.15 (5), 342.15 (5m), 342.15 (6), 342.16 (1)

1 (a), 342.16 (1) (c), 342.17 (title), 342.25 (1) (intro.), 342.25 (1) (a), 342.255
2 (intro.), 342.255 (3), 342.30 (1m), 342.34 (3), 342.34 (3m), 344.185 (2) (d),
3 344.185 (2) (e) 1., 346.65 (6) (a) 2m., 346.65 (6) (k), 346.65 (6) (km) and 409.311
4 (1) (b); **to repeal and recreate** subchapter I (title) of chapter 342 [precedes
5 342.001], 342.01, 342.02, 342.03, subchapter II (title) of chapter 342 [precedes
6 342.04] and 342.06 (1) (intro.); and **to create** 342.001 to 342.009, 342.011 to
7 342.019, 342.021 to 342.029, 342.031 and 342.04 of the statutes; **relating to:**
8 adopting the Uniform Certificate of Title Act.

Analysis by the Legislative Reference Bureau

Current law generally requires motor vehicles in this state to be titled. The Department of Transportation (DOT) generally issues and delivers a certificate of title to the owner of a vehicle upon receipt of an application for titling the vehicle. When transferring an interest in the vehicle, the owner (except a motor vehicle dealer with respect to vehicles held for resale) must record certain information on the vehicle's certificate of title and deliver the certificate of title to the person taking the interest in the vehicle, who must promptly complete an application for a new certificate of title and submit the application and the existing certificate of title to DOT. An owner who creates a security interest in a vehicle must deliver to the secured party the vehicle's certificate of title and execute the certificate of title or certain other documentation identifying the secured party, unless the secured party is already identified on the certificate of title. The secured party must then provide the certificate of title and any such documentation to DOT, which must issue to the owner a new certificate of title containing the name and address of the secured party. DOT must send the secured party notice of the notation of the security interest on the certificate of title. Special procedures, however, apply to motor vehicle dealers, which are generally not required to title vehicles in their own name. Additional provisions of current law are discussed below.

This bill generally repeals these provisions and adopts instead the Uniform Certificate of Title Act (UCOTA), which was approved and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws in 2005. Among the stated purposes of UCOTA are providing a legal structure for administration of certificate of title issues, transfers of ownership, and perfection of security interests; creating a consistent legal structure to facilitate efficient resolution of common titling issues and the efficient handling of title-related transactions; and allowing states to provide for parallel and compatible systems of both electronic and paper certificates of title. The drafters of UCOTA also stated their intention to leave in place existing state law relating to title branding

(notation on the certificate of title of damage, condition, or prior use related to the vehicle), fraudulent activity, odometer mileage disclosure, dealer licensing and sales contracts, priority of security interests, and consumer protection issues.

Significant changes in UCOTA from current law include the following:

1. Under current law, DOT may issue a certificate of title in an automated format.

This bill provides a more comprehensive system for DOT to create electronic certificates of title and for vehicle owners, purchasers, and secured parties to satisfy titling requirements through electronic means.

2. Under current law, a certificate of title is issued to and possessed by the vehicle owner and, with limited exceptions, a secured party may not take possession of the certificate of title.

Under this bill, if a security interest in a vehicle exists, the secured party, not the owner, has authority to determine whether a written or electronic certificate of title will be created and, if a written certificate of title is created, the secured party is the possessor of that certificate of title.

3. Under current law, as discussed above, a vehicle owner transferring a vehicle must execute the certificate of title and provide it to the transferee, who must then apply for a new certificate of title and deliver the existing certificate of title to DOT.

This bill allows any person authorized to execute the certificate of title to choose to deliver the signed certificate of title directly to DOT in lieu of delivering it to the buyer. Specific provisions apply with respect to electronic certificates of title.

4. Under current law, for an involuntary transfer of a vehicle, the transferee generally must provide to DOT the last certificate of title, if available, any documents required by DOT to legally effect a transfer, and an application for a new certificate of title. However, for an involuntary transfer arising from a secured party's termination of a security agreement or sale of the vehicle under a security agreement, the transferee must provide to DOT the last certificate of title, an application for a new certificate of title, and a statement made by or on behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold under the terms of the security agreement. Upon request by DOT arising from an involuntary transfer, a person holding a certificate of title whose interest in the vehicle has been extinguished or transferred must provide to DOT the certificate of title. If a vehicle is owned by a person who is a decedent or trustee or has filed for bankruptcy, DOT accepts as evidence of the ownership transfer certain documentation and must receive the vehicle title executed by certain authorized persons.

With respect to an involuntary transfer, this bill allows a secured party, regardless of whether the secured party has possession of a written certificate of title, to have DOT create a new certificate of title showing the secured party or other purchaser as the vehicle owner if, among other requirements, the secured party submits to DOT a "secured party's transfer statement" that includes a statement that the vehicle owner is in default and the secured party has the right to transfer ownership rights. The bill provides a similar procedure for the creation of a new certificate of title based upon the submission to DOT of a "transfer-by-law

statement” arising from a judicial order or law affecting vehicle ownership related to events of death, divorce, bankruptcy, exercise of lien rights, or other legal process. The bill also provides an additional procedure for DOT to create a new certificate of title in connection with the transfer of ownership of a vehicle when the existing certificate of title has not been provided to DOT.

5. Under current law, a security interest in a vehicle must be perfected to be valid against other creditors, secured parties, or vehicle transferees. A security interest is generally perfected by delivering to DOT the certificate of title, if any, with an application for a new certificate of title identifying the secured party. Perfection occurs upon the later of such delivery of the application and any existing title to DOT or the time that the security interest attaches (typically when the debtor has signed a security agreement and received the vehicle or rights in the vehicle). Except with respect to a security interest in the inventory of a motor vehicle dealer, this method of perfecting and providing notice of security interests in vehicles is exclusive, and a secured party is not required to file a financing statement or any other document with the Department of Financial Institutions or DOT in order to perfect the security interest in the vehicle. However, when the security interest terminates, the secured party must execute and deliver to the vehicle owner a release of the security interest and the owner must provide the certificate of title and release to DOT, which issues a new certificate of title that does not identify the security interest. DOT must maintain information pertaining to a perfected security interest for most vehicles in its computerized records for ten years. The Uniform Commercial Code (UCC), Article 9, determines the rules of priority for competing security interests in a vehicle and relative rights with respect to unperfected security interests.

This bill provides for delivery of a “security–interest statement” to DOT by a secured party or, as part of the certificate of title application, by a vehicle owner. A security interest in a vehicle is generally perfected upon the later of the time that the security–interest statement is received by DOT or the time that the security interest attaches (in the manner described above). The bill allows a perfected security interest that never appears on a vehicle certificate of title and that can only be found through a search of DOT’s indexed records, but if the certificate of title does not indicate the security interest or advise that the vehicle may be subject to security interests not indicated on the certificate of title, certain buyers may take their interest in the vehicle free of the security interest. When the security interest terminates, the secured party must deliver to DOT, and to the debtor upon request, a “termination statement.” DOT must maintain information provided in security–interest statements and termination statements for at least ten years, which information must be indexed and accessible and promptly available upon request. The bill also describes, in limited circumstances, the priority and rights of certain transferees relative to certain secured parties, lien creditors, and other purchasers, although most priority issues under the bill are governed by UCC Article 9.

6. Under current law, the transfer of a motor vehicle is not effective, except as between these parties, until the seller and purchaser satisfy vehicle titling requirements.

Under this bill, a transfer that does not satisfy vehicle titling requirements is effective not only with respect to the parties but also with respect to their assignees and successors.

The bill contains many other provisions altering the manner in which DOT administers its vehicle titling functions. The bill retains certain provisions of current law providing for special procedures related to vehicle transfer and titling by motor vehicle dealers.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.07 (2) of the statutes is amended to read:

2 59.07 (2) No action may be brought or maintained against a county, for
3 disclosure of information that is ~~received under s. 342.20 (3) and maintained under~~
4 ~~s. 342.20 (4) or that is~~ received under s. 30.572 (4) and maintained under s. 30.572
5 (5).

6 **SECTION 2.** 85.103 (2) of the statutes is amended to read:

7 85.103 (2) The department shall include on any form for application for original
8 registration under s. 341.08, for application for renewal of registration under s.
9 341.08, for application for a certificate of title under s. ~~342.06~~ 342.009 or
10 transfer-by-law under s. 342.022, for application for a license or identification card
11 or renewal of a license or identification card under s. 343.14 and for application for
12 a special identification card under s. 343.51, a place for the individual to designate
13 that the individual's personal identifiers may not be disclosed in information
14 compiled or maintained by the department that contains the personal identifiers of
15 10 or more individuals, a statement indicating the effect of making such a
16 designation and a place for an applicant or registrant who has made a designation
17 under this subsection or sub. (3) to reverse the designation.

1 **SECTION 3.** 85.103 (6) of the statutes is amended to read:

2 85.103 **(6)** The department may disclose the personal identifier of any person
3 who has made a designation under sub. (2) or (3) if the department discloses the
4 personal identifier under s. 341.17 (9), 342.06 (1) (intro.), 343.027, 343.14, 343.234,
5 343.235, 343.24 (3) and (4), or 343.245 (3m).

6 **SECTION 4.** 110.20 (6m) of the statutes is amended to read:

7 110.20 **(6m)** PROHIBITED INSPECTIONS. The department may not require an
8 emissions inspection of any vehicle prior to the inspection of the vehicle scheduled
9 under sub. (6) (a) 1. or (9) (d) or (j) if an interest in the vehicle is transferred to a
10 surviving spouse under s. ~~342.17 (4)~~ 342.022.

11 **SECTION 5.** 218.0146 (3) (intro.) of the statutes is amended to read:

12 218.0146 **(3)** (intro.) Except for motor vehicles obtained by involuntary transfer
13 under s. ~~342.17~~ ss. 342.021 and 342.022, a person required to be licensed under this
14 chapter may not sell, offer for sale or have possession of a motor vehicle if any of the
15 following applies:

16 **SECTION 6.** 340.01 (intro.) of the statutes is amended to read:

17 **340.01 Words and phrases defined.** (intro.) In s. 23.33 and chs. 340, 341,
18 343 to 349 and 351, and subchs. II and III of ch. 342, the following words and phrases
19 have the designated meanings unless a different meaning is expressly provided or
20 the context clearly indicates a different meaning:

21 **SECTION 7.** 340.01 (42) of the statutes is amended to read:

22 340.01 **(42)** “Owner” means a person who holds the legal title of a vehicle,
23 except that if legal title is held by a secured party with the immediate right of
24 possession of the vehicle vested in the debtor, the debtor is the owner for the purposes
25 of chs. 340, 341, 343 to 349, and subchs. II and III of ch. 342.

SECTION 8. 341.08 (3) of the statutes is amended to read:

341.08 **(3)** The department may accept an application and complete registration of a vehicle when the evidence of ownership is held by a nonresident lienholder or for other reason is not immediately available and the department is satisfied as to ownership of the vehicle. The title fee shall be collected at the time of registration and retained even though certificate of title is not issued created.

SECTION 9. 341.08 (4) of the statutes is amended to read:

341.08 (4) Applications for renewal of registration shall contain the information required in sub. (2) for original applications or such parts thereof as the department deems necessary to assure the proper registration of the vehicle. The department may require that applications for renewal of registration be accompanied by the certificate of title ~~issued~~ created for the vehicle only when the true ownership or proper registration of the vehicle is in doubt and cannot be resolved from records maintained by the department.

SECTION 10. 341.10 (3) of the statutes is amended to read:

341.10 **(3)** A certificate of title is a prerequisite to registration of the vehicle and, except for an applicant who is the lessee of a vehicle, a valid certificate of title has not been ~~issued to~~ created for the applicant ~~for~~ as the owner of record of the vehicle and the applicant is not entitled to the ~~issuance~~ creation of such a certificate of title.

SECTION 11. Subchapter I (title) of chapter 342 [precedes 342.001] of the statutes is repealed and recreated to read:

CHAPTER 342

SUBCHAPTER I

UNIFORM CERTIFICATE OF TITLE ACT

1 **SECTION 12.** 342.001 to 342.009 of the statutes are created to read:

2 **342.001 Short title.** This subchapter may be cited as the Uniform Certificate
3 of Title Act.

4 **342.002 Definitions.** In this subchapter:

5 **(1)** “Agreement” has the meaning given in s. 401.201 (3).

6 **(2)** “Buyer” means a person that buys or contracts to buy goods.

7 **(3)** “Buyer in ordinary course of business” means a person that buys goods in
8 good faith, without knowledge that the sale violates the rights of another person in
9 the goods, and in ordinary course from a person, other than a pawnbroker, in the
10 business of selling goods of that kind. A person buys goods in ordinary course if the
11 sale comports with the usual or customary practices in the kind of business in which
12 the seller is engaged or with the seller’s own usual or customary practices. A buyer
13 in ordinary course of business may buy for cash, by exchange of other property, or on
14 secured or unsecured credit, and may acquire goods under a preexisting contract for
15 sale. Only a buyer that takes possession of the goods or has a right to recover the
16 goods from the seller under ch. 402 may be a buyer in ordinary course of business.
17 The term does not include a person that acquires goods in a transfer in bulk or as
18 security for or in total or partial satisfaction of a money debt. A buyer in ordinary
19 course of business does not lose that status solely because a certificate of title was
20 not executed to the buyer.

21 **(4)** “Cancel,” with respect to a certificate of title or a certificate of origin, means
22 to make the certificate ineffective.

23 **(5)** “Certificate of origin” means a record created by a manufacturer or importer
24 as the manufacturer’s or importer’s proof of identity of a vehicle.

1 **(6)** “Certificate of title,” except in the phrases “certificate of title created by a
2 governmental agency of any state” and “certificate of title created by a governmental
3 agency of any jurisdiction,” means a record, created by the office and designated as
4 a certificate of title by it, that is evidence of ownership of a vehicle.

5 **(7)** “Collateral” has the meaning given in s. 409.102 (1) (cs).

6 **(8)** “Create” means to bring a record into existence by making or authorizing
7 the record.

8 **(9)** “Debtor” has the meaning given in s. 409.102 (1) (gs).

9 **(10)** “Deliver” means voluntarily to give possession of a record or to transmit
10 it, by any reasonable means, properly addressed and with the cost of delivery
11 provided.

12 **(11)** “Electronic” means relating to technology having electrical, digital,
13 magnetic, wireless, optical, electromagnetic, or similar capabilities.

14 **(12)** “Electronic certificate of origin” means a certificate of origin consisting of
15 information that is stored solely in an electronic medium and is retrievable in
16 perceivable form.

17 **(13)** “Electronic certificate of title” means a certificate of title consisting of
18 information that is stored solely in an electronic medium and is retrievable in
19 perceivable form.

20 **(14)** “Execute” means to sign and deliver a record on, attached to,
21 accompanying, or logically associated with a certificate of title or certificate of origin
22 to transfer ownership of the vehicle covered by the certificate.

23 **(15)** “Good faith” means honesty in fact and the observance of reasonable
24 commercial standards of fair dealing.

1 **(16)** “Importer” means a person authorized by a manufacturer to bring into and
2 distribute in the United States new vehicles manufactured outside the United
3 States.

4 **(17)** “Lease” has the meaning given in s. 411.103 (1) (j).

5 **(18)** “Lessee” has the meaning given in s. 411.103 (1) (n).

6 **(19)** “Lessee in ordinary course of business” means a person that leases goods
7 in good faith, without knowledge that the lease violates the rights of another person,
8 and in ordinary course of business from a person, other than a pawnbroker, in the
9 business of selling or leasing goods of that kind. A person leases in ordinary course
10 if the lease to the person comports with the usual or customary practices in the kind
11 of business in which the lessor is engaged or with the lessor’s own usual and
12 customary practices. A lessee in ordinary course of business may lease for cash, by
13 exchange of other property, or on secured or unsecured credit, and may acquire goods
14 or a certificate of title covering goods under a preexisting lease contract. Only a lessee
15 that takes possession of the goods or has a right to recover the goods from the lessor
16 under ch. 411 may be a lessee in ordinary course of business. A person that acquires
17 goods in bulk or as security for or in total or partial satisfaction of a money debt is
18 not a lessee in ordinary course of business.

19 **(20)** “Lessor” has the meaning given in s. 411.103 (1) (p).

20 **(21)** “Lien creditor” means any of the following:

21 (a) A creditor that has acquired a lien on the property involved by attachment,
22 levy, or the like.

23 (b) An assignee for the benefit of creditors from the time of assignment.

24 (c) A trustee in bankruptcy from the date of the filing of the petition.

25 (d) A receiver in equity from the time of appointment.

1 **(22)** “Manufactured home” has the meaning given in s. 409.102 (1) (n).

2 **(23)** “Manufacturer” means a person that manufactures, fabricates,
3 assembles, or completes new vehicles.

4 **(24)** “Merchant” has the meaning given in s. 402.104 (3).

5 **(25)** “Notice” and “notifies” have the meaning given in s. 401.201 (25) and (26).

6 **(26)** “Office” means the department of transportation.

7 **(27)** “Owner” means a person that has legal title to a vehicle.

8 **(28)** “Owner of record” means the owner of a vehicle as indicated in the files of
9 the office.

10 **(29)** “Person” means an individual, corporation, business trust, estate, trust,
11 partnership, limited liability company, association, joint venture, federally
12 recognized Indian Tribe, public corporation, government, or governmental
13 subdivision, agency, or instrumentality, or any other legal or commercial entity.

14 **(30)** “Purchase” means to take by sale, lease, mortgage, pledge, consensual
15 lien, security interest, gift, or any other voluntary transaction that creates an
16 interest in a vehicle.

17 **(31)** “Purchaser” means a person that takes by purchase.

18 **(32)** “Record” means information that is inscribed on a tangible medium or that
19 is stored in an electronic or other medium and is retrievable in perceivable form.

20 **(33)** “Representative” has the meaning given in s. 401.201 (35).

21 **(34)** “Sale” has the meaning given in s. 402.106 (6).

22 **(35)** “Secured party” means any of the following:

23 (a) A person in whose favor a security interest is created or provided for under
24 a security agreement, whether or not any obligation to be secured is outstanding.

25 (b) A person that is a consignor under ch. 409.

1 (c) A person to which accounts, chattel paper, payment intangibles, or
2 promissory notes have been sold.

3 (d) A trustee, indenture trustee, agent, collateral agent, or other representative
4 in whose favor a security interest is created or provided for.

5 (e) A person that holds a security interest arising under s. 402.401, 402.505,
6 402.711 (3), or 411.508 (5).

7 **(36)** “Secured party of record” means the secured party whose name is provided
8 as the name of the secured party or a representative of the secured party in a
9 security–interest statement that has been received by the office or, if more than one
10 are indicated, the first indicated in the files of the office.

11 **(37)** “Security agreement” has the meaning given in s. 409.102 (1) (s).

12 **(38)** “Security interest” means an interest in a vehicle which secures payment
13 or performance of an obligation. The term includes any interest of a consignor in a
14 vehicle in a transaction that is subject to ch. 409. The term does not include the
15 special property interest of a buyer of a vehicle on identification of that vehicle to a
16 contract for sale under s. 402.401, but a buyer may also acquire a security interest
17 by complying with ch. 409. Except as otherwise provided in s. 402.505, the right of
18 a seller or lessor of a vehicle under ch. 402 or 411 to retain or acquire possession of
19 the vehicle is not a security interest, but a seller or lessor may also acquire a security
20 interest by complying with ch. 409. The retention or reservation of title by a seller
21 of a vehicle notwithstanding shipment or delivery to the buyer under s. 402.401 is
22 limited in effect to a reservation of a security interest. Whether a transaction in the
23 form of a lease creates a security interest is determined by law other than this act.

24 **(39)** “Security–interest statement” means any of the following:

25 (a) A record created by a secured party which indicates a security interest.

1 (b) An application for which the office is required to create a certificate of title,
2 if the application indicates a security interest.

3 **(40)** “Seller” has the meaning given in s. 402.103 (1) (d).

4 **(41)** “Send” has the meaning given in s. 401.201 (38).

5 **(42)** “Sign” means, with present intent to authenticate or adopt a record, to do
6 any of the following:

7 (a) Make or adopt a tangible symbol.

8 (b) Attach to or logically associate with the record an electronic sound, symbol,
9 or process.

10 **(43)** “State” means a state of the United States, the District of Columbia,
11 Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or
12 any territory or insular possession subject to the jurisdiction of the United States.

13 **(44)** “Termination statement” means a record created by a secured party
14 pursuant to s. 342.027 which does all of the following:

15 (a) Identifies the security–interest statement to which it relates.

16 (b) Indicates that it is a termination statement or that the identified
17 security–interest statement is not effective.

18 **(45)** “This act” means this subchapter.

19 **(46)** “Title brand” means a designation of previous damage, use, or condition
20 that this act or law other than this act requires to be indicated on a certificate of title
21 or a certificate of origin created by a governmental agency of any jurisdiction.

22 **(47)** “Transfer” means to convey, voluntarily or involuntarily, an interest in a
23 vehicle.

24 **(48)** “Transferee” means a person that takes by transfer.

25 **(49)** “Value” has the meaning given in s. 401.201 (44).

1 **(50)** “Vehicle” means goods that are any type of motorized, wheeled device of
2 a type in, upon, or by which an individual or property is customarily transported on
3 a road or highway, or a commercial, recreational, travel, or other trailer customarily
4 transported on a road or highway. The term does not include any of the following:

5 (a) An item of specialized mobile equipment not designed primarily for
6 transportation of individuals or property on a road or highway.

7 (b) An implement of husbandry.

8 (c) A wheelchair or similar device designed for use by an individual having a
9 physical impairment.

10 (d) A manufactured home.

11 (e) An electric personal assistive mobility device, as defined in s. 340.01 (15pm).

12 (f) A snowmobile, as defined in s. 340.01 (58a).

13 (g) An all-terrain vehicle, as defined in s. 340.01 (2g).

 ****NOTE: Paragraphs (e) to (g) are added, based upon the UCOTA note following the definition of “vehicle” that encourages states to tailor this definition to their own definitions of vehicle. These additions are intended to correspond to the definitions of “motor vehicle” and “vehicle” in s. 340.01 (35) and (74). However, the UCOTA comment suggests that par. (a) was intended to cover each item of pars. (e) to (g). Because I don’t think the language of par. (a) is clear in this respect, I have added pars. (e) to (g) despite the UCOTA comment that these “vehicles” should be excluded under par. (a).

14 **(51)** “Written certificate of origin” means a certificate of origin consisting of
15 information inscribed on a tangible medium.

16 **(52)** “Written certificate of title” means a certificate of title consisting of
17 information inscribed on a tangible medium.

18 **342.003 Supplemental principles of law and equity.** Unless displaced by
19 this act, the principles of law and equity supplement its provisions.

1 **342.004 Law governing vehicle covered by certificate of title or**

2 **certificate of origin. (1)** In this section, “certificate of title” means a certificate of
3 title created by a governmental agency of any state.

4 **(2)** The local law of the state under whose certificate of title a vehicle is covered
5 governs all issues relating to the certificate of title, from the time the vehicle becomes
6 covered by the certificate of title until the vehicle ceases to be covered by the
7 certificate of title, even if no other relationship exists between the state and the
8 vehicle or its owner.

9 **(3)** A vehicle becomes covered by a certificate of title created in this state when
10 an application for a certificate of title and the fee are received by the office in
11 accordance with this act. A vehicle becomes covered by a certificate of title in another
12 state when an application for a certificate of title and the fee are received in that state
13 pursuant to the law of that state.

14 **(4)** A vehicle ceases to be covered by a certificate of title at the earlier of the time
15 the certificate of title ceases to be effective under the law of the state pursuant to
16 which it was created or the time the vehicle becomes covered subsequently by
17 another certificate of title.

18 **(5)** If a vehicle is not covered by a certificate of title but a certificate of origin
19 has been created for the vehicle, then all of the following apply:

20 (a) If the parties to the certificate of origin have chosen the law of a jurisdiction,
21 the law of that jurisdiction applies to the certificate of origin, even if there is no other
22 relationship between that jurisdiction and the vehicle or its owner.

23 (b) In the absence of an agreement effective under par. (a), the rights and
24 obligations of the parties are determined by the law that would apply under this
25 state’s choice-of-law principles.

1 **342.005 Exclusions.** Unless the vehicle is covered by a certificate of title, this
2 act does not apply to a vehicle owned by the United States, a state, or a foreign
3 government, or a political subdivision of any of them.

4 **342.006 Vehicle identification number, make, and model year.** For a
5 vehicle covered by a certificate of title, the office shall indicate in its files the vehicle
6 identification number, make, and model year, if any, assigned by its chassis
7 manufacturer or importer. If a vehicle identification number, make, or model year
8 has not been assigned, the office shall assign a vehicle identification number, make,
9 or model year and indicate the assignment in its files.

10 **342.007 Execution of certificate of origin. (1)** If a manufacturer or
11 importer creates or is authorized or required to create a certificate of origin for a
12 vehicle, upon transfer of ownership of the vehicle, the manufacturer or importer
13 shall execute a certificate of origin to the transferee or deliver a signed certificate of
14 origin to the office. Each succeeding transferor shall execute to the next transferee
15 or sign and deliver to the office all certificates of origin covering the vehicle which are
16 known to the transferor.

17 **(2)** If a certificate of title created by a governmental agency of any jurisdiction
18 is not delivered to the buyer and a written certificate of origin or equivalent evidence
19 of ownership is required by the office to obtain a certificate of title, a buyer may
20 require that the buyer's transferor execute to the buyer a written certificate of origin
21 or provide equivalent evidence of ownership sufficient to satisfy the requirements of
22 the office.

23 **342.008 Cancellation and replacement of certificate of origin. (1)** If a
24 written certificate of origin is created to replace an electronic certificate of origin, the

1 electronic certificate of origin is canceled and replaced by the written certificate of 2
origin.

3 (2) If an electronic certificate of origin is created to replace a written certificate 4
of origin, the written certificate of origin must be canceled.

5 **342.009 Application for certificate of title. (1)** Except as otherwise
6 provided in ss. 342.021 and 342.022, only the owner of a vehicle may apply for a
7 certificate of title covering the vehicle.

8 (2) An application for a certificate of title must be signed by the applicant and 9
contain all of the following:

10 (a) The applicant's name, street address, and, if different, address for receiving
11 1st class mail delivered by the U.S. Postal Service.

12 (b) Except as provided in s. 342.06 (1) (f), the vehicle identification number.

****NOTE: I have added the "except as provided ..." phrase to the UCOTA text.

13 (c) A description of the vehicle including, as required by the office, the make,
14 model, model year, and body type.

15 (d) An indication of all security interests in the vehicle known to the applicant,
16 including the name and mailing address of the secured party or a representative of
17 the secured party, and, if the application includes a direction to terminate a
18 security-interest statement, the information required for sufficiency of a
19 security-interest statement under s. 342.025 (1) and the secured party's or its
20 representative's name and address for receiving communications.

21 (e) Any title brand known to the applicant and, if known, the jurisdiction whose
22 governmental agency created the title brand.

1 (f) If law other than this act requires that an odometer reading be provided by
2 the transferor upon transfer of ownership of the vehicle, a signed record disclosing
3 the vehicle's odometer reading.

4 (g) If the application is made in connection with a transfer of ownership, the
5 transferor's name, physical address and, if different, address for receiving 1st class
6 mail delivered by the U.S. Postal Service, the sales price if any, and the date of the
7 transfer.

8 **(3)** A certificate of title created in another jurisdiction and submitted in
9 connection with an application is part of the application.

10 **(4)** In addition to the information required in sub. (2), an application for a
11 certificate of title may contain electronic communication addresses of the owner and
12 the transferor.

13 **(5)** Except as otherwise provided in ss. 342.021 to 342.023, if an application for
14 a certificate of title includes an indication of a transfer of ownership, the application
15 must be accompanied by all existing certificates of origin and any certificate of title
16 created by a governmental agency of any jurisdiction covering the vehicle, which
17 have been executed to the applicant or are known to the applicant. Except as
18 otherwise provided in s. 342.023, if an application includes a direction to terminate
19 a security-interest statement, the application must be accompanied by a
20 termination statement.

21 **(6)** Except as otherwise provided in s. 342.024, if an application for a certificate
22 of title does not include an indication of a transfer of ownership or a direction to
23 terminate a security-interest statement, the application must be accompanied by all
24 existing certificates of origin and any certificate of title created by a governmental

1 agency of any jurisdiction covering the vehicle, which are known to the applicant and
2 evidencing the applicant as owner of the vehicle.

3 (7) If the applicant does not know of any existing certificate of origin or
4 certificate of title created by a governmental agency of any jurisdiction covering the
5 vehicle, the applicant shall include in the application for a certificate of title all
6 existing records and other information of the vehicle's ownership known to the
7 applicant. Information submitted under this subsection is part of the application for
8 the certificate of title and must be indicated in the files of the office.

9 (8) The office may require that an application for a certificate of title or a
10 security-interest statement be accompanied by payment of all taxes and fees
11 payable by the applicant under the law of this state in connection with the
12 acquisition or use of a vehicle or evidence of payment of the tax or fee.

13 **SECTION 13.** 342.01 of the statutes is repealed and recreated to read:

14 **342.01 Creation and cancellation of certificate of title.** (1) Unless an
15 application for a certificate of title is rejected under sub. (3), the office shall create
16 a certificate of title upon receipt of an application that complies with s. 342.009 and
17 payment of all taxes and fees.

18 (2) Upon request of the secured party of record, the office shall create a written
19 certificate of title or, if the office is authorized to do so, an electronic certificate of title.
20 If no security interest is indicated in the files of the office, the owner of record may
21 have the office create a written certificate of title or, if the office is authorized to do
22 so, an electronic certificate of title. If no request is made by an owner of record or
23 secured party, the office may create a written certificate of title or, if authorized to
24 do so, an electronic certificate of title.

1 **(3)** The office may reject an application for a certificate of title only if any of the
2 following apply:

3 (a) The application does not comply with s. 342.009.

4 (b) There is a reasonable basis for concluding that the application is fraudulent
5 or would facilitate a fraudulent or illegal act.

6 (c) The application does not comply with law of this state other than this act.

7 **(4)** If the office has created a certificate of title, it may cancel the certificate of
8 title only if it could have rejected the application under sub. (3) or is required to cancel
9 the certificate of title under another provision of this act.

 ****NOTE: I have not repealed existing law that may be inconsistent with sub. (4).
 See ss. 342.25 and 342.255, stats., and definition of “cancel” at s. 342.002 (4).

10 **SECTION 14.** 342.011 to 342.019 of the statutes are created to read:

11 **342.011 Contents of certificate of title. (1)** A certificate of title must
12 contain all of the following:

13 (a) The date the certificate of title was created.

14 (b) Except as otherwise provided in s. 342.026 (2), the name and address of any
15 secured party of record and an indication of whether there are additional security
16 interests indicated in the files of the office or on a record created by a governmental
17 agency of any jurisdiction and submitted to the office.

18 (c) All title brands covering the vehicle, including brands previously indicated
19 on a certificate of origin or certificate of title created by a governmental agency of any
20 jurisdiction, which are known to the office.

21 (d) Any other information required by s. 342.009 (2), except the applicant’s
22 address.

1 (2) Nothing in this act precludes an office from noting on a certificate the name
2 and address of a secured party that is not a secured party of record.

3 (3) An indication of a title brand on a certificate of title may consist of an
4 abbreviation, but not a symbol, and must identify the jurisdiction that created the
5 title brand or the jurisdiction that created a certificate of title created by a
6 governmental agency of any jurisdiction that indicated the title brand. If the
7 meaning of a title brand is not easily ascertainable or cannot be accommodated on
8 the certificate of title, the certificate of title may state: "Previously branded in [insert
9 the particular jurisdiction that created the title brand or whose certificate of title
10 previously indicated the title brand]."

11 (4) If a vehicle was previously registered in a jurisdiction other than a state,
12 the office shall indicate on the certificate of title that the vehicle was registered in
13 that jurisdiction.

14 (5) A certificate of title must contain a form that the owner may sign in order
15 to execute the certificate.

16 **342.012 Effect of possession of certificate of title or certificate of**
17 **origin; judicial process.** A certificate of title created by a governmental agency of
18 any jurisdiction or a certificate of origin does not by itself provide a means to obtain
19 possession of a vehicle. Garnishment, attachment, levy, replevin, or other judicial
20 process against the certificate of title or a certificate of origin is not effective to
21 determine possessory rights with respect to the vehicle. However, this act does not
22 prohibit enforcement of a security interest in, levy on, or foreclosure of a statutory
23 or common-law lien on a vehicle under law of this state other than this act. The
24 absence of an indication of a statutory or common-law lien on a certificate of title
25 does not invalidate the lien.

1 **342.013 Other information.** (1) The office may accept a submission of
2 information relating to a vehicle for indication in the files of the office, even if the
3 requirements for a certificate of title, an application for a certificate of title, a
4 security–interest statement, or a termination statement have not been met.

5 (2) A submission of information under this section, to the extent practicable,
6 must include the information required by s. 342.009 (2) for an application for a
7 certificate of title.

8 (3) The office may require the submission of information relating to a vehicle
9 required for payment of taxes and fees for issuance or renewal of registration.

10 (4) The office may require a person submitting information under this section
11 to provide a bond in a form and amount determined by the office. A bond must
12 provide for indemnification of any secured party or other interested party against
13 any expense, loss, or damage resulting from indication of the information in the files
14 of the office.

15 (5) A submission of information under this section and its indication in the files
16 of the office is not a certificate of title, an application for a certificate of title, a
17 security–interest statement, or a termination statement and does not provide a basis
18 for transferring or determining ownership of a vehicle or the effectiveness of a
19 security–interest statement.

20 **342.014 Maintenance of and access to files.** (1) For each record relating
21 to a certificate of title submitted to the office, the office shall do all of the following:

22 (a) Ascertain or assign the vehicle identification number, make, and model year
23 of the vehicle to which the record relates pursuant to s. 342.006.

1 (b) Indicate in the files of the office the vehicle identification number, make, and
2 model year of the vehicle to which the record relates and the information in the
3 record, including the date and time the record was delivered to the office.

4 (c) Maintain the file for public inspection as provided under s. 19.35 (1), subject
5 to ss. 85.103 and 341.17 (9).

****NOTE: Paragraph (c) has been tailored from the UCOTA text to fit with other provisions of Wisconsin law.

6 (d) Index the files of the office so as to be accessible as required by sub. (2).

7 **(2)** The office shall indicate in the files of the office the information contained
8 in all certificates of title created under this act. The files of the office must be
9 accessible by the vehicle identification number for the vehicle covered by the
10 certificate and any other indexing method used by the office.

11 **(3)** To the extent known to the office, the files of the office maintained under
12 this section relating to a vehicle must indicate all title brands and the name or names
13 of any secured party and claimant to ownership of the vehicle and include
14 stolen-property reports and security-interest statements.

15 **342.015 Delivery of certificate of title. (1)** Upon creation of a certificate
16 of title, the office shall promptly deliver a written certificate of title, or a record
17 evidencing an electronic certificate of title, to any secured party of record at the
18 address shown on the security-interest statement submitted by the secured party
19 of record. Unless previously provided to the owner of record, the office shall promptly
20 deliver a record evidencing the certificate of title to the owner of record at the address
21 indicated in the files of the office. If no secured party is indicated in the files of the
22 office, the written certificate of title or record evidencing the electronic certificate of
23 title must be delivered to the owner of record. A record evidencing an electronic

1 certificate of title may be delivered to a mailing address or, if indicated in the files
2 of the office, an electronic communication address.

3 (2) Within a reasonable time not to exceed 15 business days after receipt of a
4 request that a written certificate of title be created and delivered pursuant to sub.

5 (1), the office shall create the certificate and deliver it to the person making the
6 request.

7 (3) If a written certificate of title is created, any electronic certificate of title is
8 canceled and replaced by the written certificate of title. The cancellation must be
9 indicated in the files of the office with an indication of the date and time of
10 cancellation.

11 (4) Before an electronic certificate of title is created, any certificate of title must
12 be surrendered. If an electronic certificate of title is created, any existing written
13 certificate of title that has been surrendered to the office must be destroyed or
14 otherwise canceled, with an indication in the files of the office of the date and time
15 of destruction or other cancellation. If the written certificate of title being canceled
16 is not destroyed, the cancellation must be indicated on the face of the written
17 certificate of title.

18 **342.016 Transfer. (1)** Upon sale of a vehicle covered by a certificate of title,
19 a person authorized to execute the certificate of title, as promptly as practicable and
20 in compliance with this act and law of this state other than this act, shall execute the
21 certificate to the buyer or deliver to the office a signed certificate of title or a record
22 evidencing execution of an electronic certificate of title to the buyer. The buyer of a
23 vehicle covered by a certificate of title has a specifically enforceable right to require
24 the seller to execute the certificate of title to the buyer or deliver to the office a signed
25 certificate of title or other record evidencing the transfer.

****NOTE: Although under the precise language of this subsection no alteration of this UCOTA text or treatment of s. 342.16 might be necessary with respect to dealers, I have added “notwithstanding” language in s. 342.16 to make it clear that the provisions of s. 342.16, rather than this subsection, govern the requirements of dealers with respect to vehicle inventory. More generally, the attached draft retains the special titling and transfer provisions of current law related to motor vehicle dealers. Reading both the text and comments of UCOTA, it is not clear whether retaining these special dealer provisions is consistent with the intent of the UCOTA drafters. However, repealing these dealer titling and transfer provisions would have a large and likely negative impact on the administration of vehicle titling in this state.

1 **(2)** Execution of a certificate of title created by a governmental agency of any
2 jurisdiction satisfies sub. (1). 3

(3) As between the parties to a transfer and their assignees and successors, a
4 transfer of ownership is not rendered ineffective by a failure to execute a certificate
5 of title or certificate of origin as provided in this section. However, except as
6 otherwise provided in s. 342.018 (2) and (3), 342.019, 342.021, or 342.022, a transfer
7 of ownership without execution of a certificate of title or certificate of origin is not
8 effective as to other persons claiming an interest in the vehicle.

9 **(4)** Before an agreement to transfer ownership by an electronic certificate of
10 title is made or any consideration for the transfer is paid, and before a record
11 evidencing the transfer is executed to the transferee or delivered by the transferor
12 to the office, the transferor shall deliver to the transferee a signed record containing
13 the information required by s. 342.009 (2), and the transferee shall deliver to the
14 transferor a signed record acknowledging receipt of the information. The transferee
15 has a specifically enforceable right to receive this information before any
16 consideration is paid. The record delivered to the office must indicate that these
17 requirements have been met.

18 **(5)** After execution of the certificate of title and delivery of possession of the
19 vehicle to the transferee, the transferor is not liable as owner for any damages

1 resulting from operation of the vehicle thereafter even if the transferee fails to apply
2 for a new certificate of title reflecting the transfer.

3 **342.017 Notice of transfer without application.** A transferee or
4 transferor, in accordance with standards and procedures established by the office,
5 may deliver a signed record to the office giving notice of the transfer, to indicate its
6 ownership or lack of ownership, without filing an application for a certificate of title.
7 The record may indicate the transfer of ownership between the transferor and
8 transferee. The record is not a certificate of title and is not effective as to other
9 persons claiming an interest in the vehicle. The delivery to the office of the record
10 containing the notice does not relieve any party of any obligation under s. 342.009
11 or 342.016.

12 **342.018 Power to transfer. (1)** A purchaser of a vehicle has the protections
13 afforded by ss. 402.403, 411.304 (1), and 411.305 (1).

14 **(2)** A buyer in ordinary course of business or lessee in ordinary course of
15 business of a vehicle has the protections afforded by ss. 402.403 (2), 411.304 (2), and
16 411.305 (2), even if the certificate of title is not executed to the buyer or lessee.

17 **(3)** A purchase of a leasehold interest is subject to s. 411.303.

18 **(4)** Except as otherwise provided in s. 342.016, the rights of other purchasers
19 of vehicles and of lien creditors are governed by chs. 402, 406, 407, 409, 411, and 779.

****NOTE: I added the reference to ch. 779, which is not in the UCOTA text.

20 **342.019 Other transferees of vehicle covered by certificate of title. (1)**
21 Except as otherwise provided in this section or s. 341.65 (2) (g), 342.018 (2), or 342.40
22 (3) (c), a transferee of ownership takes subject to all of the following:

****NOTE: I have added the cross-references to ss. 341.65 (2) (g) and 342.40 (3) (c),
which are not in the UCOTA text.

23 (a) A security interest in the vehicle indicated on a certificate of title.

1 (b) If the certificate of title contains a statement that the vehicle is or may be
2 subject to security interests not indicated on the certificate of title, a security interest
3 not so indicated.

4 **(2)** If, while a security interest in a vehicle is perfected by any method under
5 the law of any jurisdiction, the office creates a certificate of title that does not indicate
6 the vehicle is subject to the security interest or contain a statement that it may be
7 subject to security interests not indicated on the certificate, a buyer of the vehicle,
8 other than a person in the business of selling or leasing goods of that kind, takes free
9 of the security interest if all of the following apply:

10 (a) The buyer gives value in good faith, receives possession of the vehicle, and
11 obtains execution of the certificate of title.

12 (b) The buyer does not have knowledge of the security interest in the vehicle.

13 **(3)** A buyer in ordinary course of business takes free of a security interest in
14 the vehicle, including a security interest indicated on a certificate of title, created by
15 the buyer's seller, even if the security interest is perfected, the buyer knows of its
16 existence, and the certificate of title was not executed to the buyer. A lessee in
17 ordinary course of business takes its leasehold interest free of a security interest in
18 the vehicle, including a security interest indicated on a certificate of title, created by
19 the lessee's lessor, even if the security interest is perfected, the lessee knows of its
20 existence, and the certificate of title was not executed to the lessee. This subsection
21 does not affect a security interest in a vehicle in the possession of the secured party
22 under ch. 409.

23 **(4)** If, while a security interest in a vehicle is perfected by any method under
24 the law of any jurisdiction, the office creates a certificate of title that does not indicate
25 that the vehicle is subject to the security interest or contain a statement that it may

1 be subject to security interests not indicated on the certificate of title, the security
2 interest is subordinate to a conflicting security interest in the vehicle which is
3 perfected after creation of the certificate of title and without the conflicting secured
4 party's knowledge of the security interest.

5 (5) A security interest is indicated on an electronic certificate of title if it is
6 indicated in the record of the certificate of title maintained by the office.

7 SECTION 15. 342.02 of the statutes is repealed and recreated to read:

8 **342.02 Effect of omission or incorrect information. (1)** Except as
9 otherwise provided in this section, a certificate of title, certificate of origin,
10 security-interest statement, or other record required or authorized by this act is
11 effective even if it contains incorrect information or does not contain required
12 information.

13 (2) In addition to any rights provided under s. 342.018 or 342.019, if a
14 certificate of title, certificate of origin, security-interest statement, or other record
15 required or authorized by this act is seriously misleading because it contains
16 incorrect information or omits required information, a purchaser of the vehicle to
17 which the record relates takes free of any interest that would have been indicated
18 in the record if the correct or omitted information had been indicated, to the extent
19 that the purchaser gives value in reasonable reliance on the incorrect information
20 or the absence of the omitted information.

21 (3) Except as otherwise provided in sub. (4) or s. 342.205 (3), a description of
22 a vehicle, including the vehicle identification number, in a certificate of title,
23 certificate of origin, security-interest statement, or other record required or
24 authorized by this act which otherwise satisfies this act is not seriously misleading,
25 even if not specific and accurate, if the description reasonably identifies the vehicle.

1 (4) With respect to a security interest or other interest indicated in the files of
2 the office and not indicated on a written certificate of title, a failure to indicate the
3 information specifically or accurately is not seriously misleading if a search of the
4 files of the office using the correct vehicle identification number or other required
5 information, using the office's standard search logic, if any, would disclose the
6 security interest or other interest.

7 **SECTION 16.** 342.021 to 342.029 of the statutes are created to read:

8 **342.021 Transfer by secured party's transfer statement.** (1) In this
9 section, "secured party's transfer statement" means a record signed by the secured
10 party of record stating all of the following:

11 (a) That the owner of record has defaulted on an obligation to the secured party
12 of record.

13 (b) That the secured party of record is exercising or has exercised post-default
14 remedies with respect to the vehicle.

15 (c) That, by reason of the exercise, the secured party of record has the right to
16 transfer the rights of the owner of record.

17 (d) The name and last-known mailing address of all of the following:

18 1. The owner of record.

19 2. The secured party of record.

20 3. Any other purchaser.

21 (e) Any other information required by s. 342.009 (2).

22 (f) That the certificate of title is an electronic certificate of title, or that the
23 secured party does not have possession of the written certificate of title created in the
24 name of the owner of record, or that the secured party is delivering the written
25 certificate of title to the office with the secured party's transfer statement.

1 **(2)** Completion and delivery to the office of a secured party's transfer
2 statement, and payment of all applicable taxes and fees, entitles the secured party
3 to the creation of a certificate of title showing the secured party of record or other
4 purchaser as the owner of record. Unless the secured party's transfer statement is
5 rejected by the office for a reason set forth in s. 342.01 (3), the office shall do all of the
6 following:

7 (a) Accept the secured party's transfer statement.

8 (b) Amend the files of the office to reflect the transfer.

9 (c) Cancel the certificate of title created in the name of the owner of record listed
10 in the secured party's transfer statement, whether or not the certificate of title has
11 been delivered to the office.

12 (d) Create a new certificate of title indicating the secured party of record or
13 other purchaser as the vehicle's owner of record.

14 (e) Deliver the new certificate of title pursuant to s. 342.015.

15 **(3)** The creation of a certificate of title under sub. (2) is not of itself a disposition
16 of the vehicle and does not of itself relieve the secured party of its duties under ch.
17 409.

18 **342.022 Transfer by operation of law. (1)** In this section:

19 (a) "By operation of law" means pursuant to a law or judicial order affecting
20 ownership of a vehicle in any of the following respects:

21 1. On account of death, divorce or other family law proceeding, merger,
22 consolidation, dissolution, or bankruptcy.

23 2. Through the exercise of the rights of a lien creditor or a person having a
24 statutory or common law lien or other nonconsensual lien.

25 3. Through other legal process.

1 (b) "Transfer-by-law statement" means a record signed by a transferee stating
2 that, by operation of law, the transferee has acquired or has the right to acquire the
3 ownership interest of the owner of record and containing all of the following:

4 1. The name and mailing address of the owner of record and the transferee and
5 the other information required by s. 342.009 (2).

6 2. Documentation sufficient to establish the transferee's interest or right to
7 acquire the ownership interest of the owner of record.

8 3. A statement that any of the following apply:

9 a. The certificate of title is an electronic certificate of title.

10 b. The transferee does not have possession of the written certificate of title
11 created in the name of the owner of record.

12 c. The transferee is delivering the written certificate of title to the office with
13 the transfer-by-law statement.

14 **(2)** If a transfer-by-law statement is delivered to the office with all taxes and
15 fees and documentation satisfactory to the office as to the transferee's ownership
16 interest or right to acquire the ownership interest of the owner of record, unless it
17 is rejected by the office for a reason set forth in s. 342.01 (3), the office shall do all of
18 the following:

19 (a) Accept delivery of the transfer-by-law statement.

20 (b) Promptly send notice to the owner of record and to all persons indicated in
21 the files of the office as having an interest, including a security interest, in the vehicle
22 that a transfer-by-law statement has been delivered to the office.

23 (c) Amend the files of the office to reflect the transfer.

1 (d) Cancel the certificate of title created in the name of the owner of record
2 indicated in the transfer-by-law statement, whether or not the certificate has been
3 delivered to the office.

4 (e) Create a new certificate of title, indicating the transferee as owner of record.

5 (f) Deliver the new certificate of title.

6 **(3)** This section does not apply to a transfer of an interest in a vehicle by a
7 secured party under s. 342.021 or ch. 409.

8 **342.023 Application for transfer of ownership or termination of**
9 **security-interest statement without certificate of title or certificate of**
10 **origin. (1)** Except as otherwise provided in s. 342.021 or 342.022, upon receiving
11 an application that includes an indication of a transfer of ownership or a direction
12 to terminate a security-interest statement but is not accompanied by submission of
13 a signed certificate of title or certificate of origin or, as applicable, a termination
14 statement pursuant to s. 342.027, the office may create a certificate of title or
15 terminate the security-interest statement under this section only if all of the
16 following apply:

17 (a) All other requirements under ss. 342.009 and 342.01 are met.

18 (b) The applicant has provided an affidavit stating facts that indicate the
19 applicant is entitled to a transfer of ownership or termination of the effectiveness of
20 a security-interest statement.

21 (c) At least 45 days before the office creates the certificate of title, the office has
22 sent notice of the application to all persons having an interest in the vehicle as
23 indicated in the files of the office and no objection from any of those persons has been
24 received by the office.

1 (d) The applicant submits any other information required by the office to
2 evidence the applicant's ownership or right to termination of the security-interest
3 statement, and the office has no credible information indicating theft, fraud, or any
4 undisclosed or unsatisfied security interest, lien, or other claim to an interest in the
5 vehicle.

6 (2) Unless the office determines, by any reasonable method, that the value of
7 the vehicle is less than \$3,000, before creating a certificate of title, the office may
8 require an applicant under sub. (1) to post a bond or provide an equivalent source of
9 indemnity or security. The bond, indemnity, or other security must be in a form
10 prescribed by the office and provide for indemnification of any owner, purchaser, or
11 other claimant for any expense, loss, delay, or damage, including reasonable
12 attorney's fees and costs but not consequential damages, resulting from creation of
13 a certificate of title or termination of a security-interest statement, but may not
14 exceed twice the value of the vehicle as determined by the office.

15 (3) If the office has not received a claim for indemnity within one year after
16 creation of the certificate of title under sub. (1), upon request in a form and manner
17 specified by the office, the office shall release any bond, indemnity, or other security.

18 (4) The office may indicate in a certificate of title created under sub. (1) that
19 the certificate of title was created without submission of a signed certificate of title
20 or termination statement. If no credible information indicating theft, fraud, or any
21 undisclosed or unsatisfied security interest, lien, or other claim to an interest in the
22 vehicle has been delivered to the office within one year after creation of the certificate
23 of title, upon request in a form and manner specified by the office, the office shall
24 remove the indication from the certificate of title.

1 **342.024 Replacement certificate of title. (1)** If a written certificate of title
2 is lost, stolen, mutilated, destroyed, or otherwise becomes unavailable or illegible,
3 the secured party of record or, if there is no secured party indicated in the files of the
4 office, the owner of record may apply for and, by furnishing information satisfactory
5 to the office, obtain a replacement certificate of title in the name of the owner of
6 record.

7 **(2)** An application for a replacement certificate of title must be submitted in
8 a record signed by the applicant and, except as otherwise permitted by the office,
9 must comply with s. 342.009.

10 **(3)** Unless it has been lost, stolen, or destroyed or is otherwise unavailable, the
11 existing written certificate of title must be submitted to the office with an application
12 for a replacement certificate of title.

13 **(4)** A replacement certificate of title created by the office must comply with s.
14 342.011 and indicate on the face of the certificate of title that it is a replacement
15 certificate of title.

16 **(5)** If a person receiving a replacement certificate of title subsequently obtains
17 possession of the original written certificate of title, the person shall promptly
18 destroy the original written certificate of title.

19 **342.025 Effectiveness of security–interest statement. (1)** A
20 security–interest statement is sufficient if it includes the name of the debtor, the
21 name of the secured party or a representative of the secured party, a description that
22 reasonably identifies the vehicle and is not seriously misleading under s. 342.02, and
23 is delivered in compliance with any of the following:

24 (a) If the security–interest statement is indicated on an application for which
25 the office is required to create a certificate of title, by the owner.

1 (b) If the security–interest statement is not indicated on an application for
2 which the office is required to create a certificate of title, by a person authorized to
3 file an initial financing statement covering the vehicle pursuant to s. 409.509.

****NOTE: There seems to be no requirement in UCOTA that, upon delivery to DOT of a secured party’s security–interest statement, the certificate of title also be delivered to DOT or that DOT otherwise create a new certificate of title with the security interest identified on it. Rather, it appears that the UCOTA drafters intended that DOT’s records be searched (like UCC records are searched now) for security–interest statements, which may show a security interest not identified on the certificate of title. The UCOTA drafters apparently intended to depart from the current practice that all known security interests should appear on the certificate of title. One comment to UCOTA refers to “the importance of allowing subsequent parties to search for and file security–interest statements without otherwise having access to the certificate of title.” I assume that the UCOTA drafters intended to establish a mechanism whereby perfected security interests could routinely not appear on the certificate of title. However, this situation would create certain risks to the secured party, as some buyers may take their interest in the vehicle free of the security interest if it is not noted on the certificate of title and if the certificate of title does not advise that the vehicle may be subject to security interests not indicated on the certificate. These factors may, as a practical matter, convince the secured party to seek issuance of a new certificate of title, although the UCOTA text suggests to me that the owner’s cooperation in such an endeavor would be required (only the “owner” may submit an application for a certificate of title).

4 (2) A security–interest statement that is sufficient under sub. (1) is effective
5 upon receipt by the office.

6 (3) Subject to subs. (5) and (6), a security–interest statement is not received if
7 the office rejects the statement pursuant to sub. (5). The office may reject a
8 security–interest statement only in the manner specified in sub. (5) and only if any
9 of the following apply:

10 (a) The record is not delivered by a means authorized by the office.

11 (b) An amount equal to or greater than the required filing fee is not tendered
12 with the statement or, if the office elects to notify the secured party of the filing fee
13 deficiency, within 7 days after the notification has been given.

14 (c) The record does not include the name and mailing address of a debtor and
15 a secured party or a representative of a secured party.

16 (d) The record does not contain the vehicle identification number.

1 (e) The office cannot identify a file of the office, certificate of title, or application
2 for a certificate of title to which the security–interest statement relates.

3 (4) The office shall maintain files of the office showing the date of receipt of each
4 security–interest statement that is not rejected and shall make this information
5 available on request.

6 (5) To reject a security–interest statement, the office must send notice of
7 rejection to the person that delivered the statement, indicating the reasons for the
8 rejection and the date the statement would have been received had the office not
9 rejected it.

10 (6) If the office does not send notice of rejection under sub. (5), the
11 security–interest statement is received as of the time it was delivered to the office.
12 Confirmation by the office that the security–interest statement has been entered in
13 the files of the office is conclusive proof that receipt has occurred.

14 (7) If a security–interest statement sufficient under sub. (1) is tendered with
15 the filing fee and the office sends a notice of rejection without indicating a reason set
16 forth in sub. (3), the security–interest statement is effective as of the business day
17 on which the statement was tendered to the office except as against a purchaser of
18 the vehicle which gives value in reasonable reliance upon the absence of the
19 security–interest statement from the files of the office.

20 (8) Failure of the office to index a security–interest statement correctly or to
21 indicate the security interest on the certificate of title does not affect the receipt of
22 the security–interest statement.

23 **342.026 Perfection of security interest.** (1) Except as otherwise provided
24 in sub. (2), (4), or (5), a security interest in a vehicle may be perfected only by a
25 security–interest statement that is effective under s. 342.025. The security interest

1 is perfected upon the later of receipt of the security–interest statement under s.
2 342.025 or attachment of the security interest under s. 409.203.

3 **(2)** If the office creates a certificate of title naming a lessor, consignor, bailor,
4 or secured party as owner and the interest of the person named as owner is a security
5 interest, the certificate of title serves as a security–interest statement that provides
6 the name of the person as secured party. If the interest of the person named as owner
7 in an application for a certificate of title delivered to the office in accordance with s.
8 342.009 is a security interest, the application is a security–interest statement that
9 provides the name of the person as secured party. The naming of the person as owner
10 on the application or certificate of title is not of itself a factor in determining whether
11 the interest is a security interest.

12 **(3)** If a secured party assigns a perfected security interest in a vehicle, the
13 receipt by the office of a security–interest statement providing the name of the
14 transferee or its representative as secured party is not required in order to continue
15 the perfected status of the security interest against creditors of and transferees from
16 the original debtor. However, a purchaser of a vehicle subject to a security interest
17 which obtains a release from the secured party indicated in the files of the office or
18 on the certificate of title takes free of the security interest and of the rights of a
19 transferee if the transfer is not indicated in the files of the office and on the certificate
20 of title.

21 **(4)** This section does not apply to a security interest in a vehicle created by a
22 person during any period in which the vehicle is inventory held for sale or lease by
23 the person or is leased by the person as lessor if the person is in the business of selling
24 goods of that kind.

1 **(5)** A security interest is perfected to the extent provided in s. 409.316 (4). A
2 secured party may also perfect a security interest by taking possession of a vehicle
3 only pursuant to ss. 409.313 (2) and 409.316 (4).

4 **342.027 Termination statement. (1)** A secured party indicated in the files
5 of the office as having a security interest in a vehicle shall deliver to the office and,
6 upon the debtor's request, to the debtor, a signed termination statement if any of the
7 following apply:

8 (a) There is no obligation secured by the vehicle subject to the security interest
9 and no commitment to make an advance, incur an obligation, or otherwise give value
10 secured by the vehicle.

11 (b) The debtor did not authorize the filing of the security-interest statement.

12 **(2)** A secured party indicated in the files of the office as having a security
13 interest in a vehicle shall deliver a signed termination statement to the debtor or the
14 office upon the earlier of any of the following:

15 (a) Thirty days after there is no obligation secured by the vehicle subject to the
16 security-interest statement and no commitment to make an advance, incur an
17 obligation, or otherwise give value secured by the vehicle.

18 (b) Ten days after the secured party receives a signed demand from an owner
19 and there is no obligation secured by the vehicle subject to the security interest and
20 no commitment to make an advance, incur an obligation, or otherwise give value
21 secured by the vehicle.

22 **(3)** If a written certificate of title has been created and delivered to a secured
23 party and a termination statement is required under sub. (1), the secured party,
24 within the time provided in sub. (2), shall deliver the written certificate of title to the
25 debtor or the office with the termination statement. If the written certificate is lost,

1 stolen, mutilated, or destroyed or is otherwise unavailable or illegible, the secured
2 party shall deliver with the termination statement, within the time provided in sub.

3 (2), an application for a replacement certificate of title meeting the requirements of
4 s. 342.024.

5 (4) Upon the delivery of a termination statement to the office pursuant to this
6 section, the security-interest statement and any indication of the security interest
7 on the certificate of title to which the termination statement relates ceases to be
8 effective. The files of the office must indicate the date and time of delivery of the
9 termination statement to the office.

10 (5) A secured party is liable for damages in the amount of any loss caused by
11 its failure to comply with this section and for the reasonable cost of an application
12 for a certificate of title under s. 342.009 or 342.024.

13 **342.028 Duties and operation of filing office.** (1) The files of the office
14 must indicate the information provided in security-interest statements and
15 termination statements received by the office under s. 342.025 or 342.027 for at least
16 10 years after termination of the security-interest statement under s. 342.027. The
17 information must be accessible by the vehicle identification number for the vehicle
18 and any other indexing methods provided by the office.

19 (2) The office shall send to a person that submits a record to the office, or
20 submits information that is accepted by the office, and requests an acknowledgment
21 of the filing or submission, an acknowledgment showing the vehicle identification
22 number of the vehicle to which the record or submission relates, the information in
23 the filed record or submission, and the date and time the record was received or the
24 submission accepted. A request under this section must contain the vehicle
25 identification number and be delivered by means authorized by the office.

1 **(3)** The office shall send or otherwise make available in a record all of the
2 following information to any person that requests it:

3 (a) Whether the files of the office indicate, as of a date and time specified by the
4 office, but not a date earlier than 3 business days before the office received the
5 request, any certificate of title, security–interest statement, or termination
6 statement that relates to a vehicle identified by a vehicle identification number
7 designated in the request.

8 (b) The name of the owner of record and the effective date of all
9 security–interest statements and termination statements indicated in the files of the
10 office.

11 **(4)** In responding to a request under this section, the office may communicate
12 the requested information in any medium. However, if requested, the office shall
13 send the requested information in a record that is self–authenticating under s.
14 909.02 (4).

15 **(5)** The office shall comply with this section at the time and in the manner
16 prescribed by the rules of the office but shall respond to requests under this section
17 not later than 2 business days after the office receives the request.

18 **342.029 Uniformity of application and construction.** In applying and
19 construing this uniform act, consideration must be given to the need to promote
20 uniformity of the law with respect to its subject matter among states that enact it.

21 **SECTION 17.** 342.03 of the statutes is repealed and recreated to read:

22 **342.03 Electronic signatures in global and national commerce act.** This
23 act modifies, limits, and supersedes the federal Electronic Signatures in Global and
24 National Commerce Act (15 USC 7001, et seq.) but does not modify, limit, or

supersede section 101 (c) of that act (15 USC 7001 (c)) or authorize electronic delivery of any of the notices described in section 103 (b) of that act (15 USC 7003 (b)).

SECTION 18. 342.031 of the statutes is created to read:

342.031 Savings clause. (1) Except as otherwise provided in this section, this act applies to any transaction, certificate of title, or record involving a vehicle, even if the transaction, certificate of title, or record was entered into or created before the effective date of this act.

(2) A transaction, certificate of title, or record that was validly entered into or created before the effective date of this act and would be subject to this act if it had been entered into or created on or after the effective date of this act, and the rights, duties, and interests flowing from the transaction, certificate of title, or record remains valid after the effective date of this act.

(3) This act does not affect an action or proceeding commenced before the effective date of this act.

(4) A security interest that is enforceable immediately before the effective date of this act and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this act.

(5) This act does not affect the priority of a security interest in a vehicle if immediately before the effective date of this act the security interest is enforceable and perfected, and that priority is established.

SECTION 19. Subchapter II (title) of chapter 342 [precedes 342.04] of the statutes is repealed and recreated to read:

CHAPTER 342

SUBCHAPTER II

ADDITIONAL TITLE PROVISIONS

1 **SECTION 20.** 342.04 of the statutes is created to read:

2 **342.04 Definitions and scope. (1) DEFINITIONS.** In this subchapter and
3 subch. III of this chapter:

4 (a) “Deliver” includes electronic transmission.

5 (b) “Leasing company” means any lessor who, within the preceding 12 months,
6 has leased 5 or more vehicles for a period of at least 4 months.

7 (c) “Mileage” means the actual distance that a vehicle has traveled in miles.

8 (d) “Transfer” means to change ownership by purchase, gift, or any other
9 means.

 ****NOTE: This subsection was formerly s. 342.01.

10 **(2) EXCEPTED LIENS AND SECURITY INTERESTS.** The provisions of this chapter do
11 not apply to a lien given by statute to the United States, this state, or any political
12 subdivision of this state, and do not apply to a lien arising under s. 779.41 or 779.415
13 to the extent the provisions of this chapter are inconsistent with ss. 779.41 and
14 779.415.

 ****NOTE: This subsection is based upon former s. 342.02, which I have modified
considerably, including elimination of former s. 342.02 (3). These modifications were made
based upon my reading of the intent of UCOTA.

15 **(3) MOTOR VEHICLE, TRAILER, OR SEMITRAILER LEASES.** Notwithstanding s. 401.201
16 (37) or ch. 409, a transaction involving a motor vehicle, trailer, or semitrailer does
17 not create a conditional sale or a security interest merely because it includes a
18 provision that permits or requires the rental price to be adjusted under the
19 agreement by reference to the amount realized upon the sale or other disposition of
20 the motor vehicle, trailer, or semitrailer.

 ****NOTE: This subsection was formerly s. 342.03.

21 **SECTION 21.** 342.05 (1) (a) of the statutes is amended to read:

1 342.05 (1) (a) If the owner has newly acquired the vehicle, he or she shall make
2 application for a certificate of title under s. ~~342.15~~ 342.009, deliver a secured party's
3 transfer statement under s. 342.021, or deliver a transfer-by-law statement under
4 s. 342.022.

5 **SECTION 22.** 342.05 (1) (b) of the statutes is amended to read:

6 342.05 (1) (b) If the owner applies for registration of a vehicle without holding
7 a valid certificate of title previously ~~issued to~~ created for that owner by the
8 department for the vehicle, he or she shall at the same time apply for a certificate of
9 title.

10 **SECTION 23.** 342.05 (2) of the statutes is amended to read:

11 342.05 (2) Except as provided in sub. (3), an applicant's eligibility for a
12 certificate of title is a prerequisite to registration of the vehicle. If the applicant for
13 registration holds a valid certificate of title previously ~~issued to~~ created for the
14 applicant by the department for the vehicle, that is prima facie evidence of ownership
15 of the vehicle and the applicant need not apply for a new certificate of title on
16 application for registration.

17 **SECTION 24.** 342.05 (4) of the statutes is amended to read:

18 342.05 (4) Any owner who operates or consents to the operation of a vehicle for
19 which a certificate of title is required without such certificate having been ~~issued~~
20 created or applied for or any other person who operates a vehicle for which a
21 certificate of title is required, knowing that the certificate of title has not been ~~issued~~
22 created or applied for, may be required to forfeit not more than \$200. A certificate
23 is considered to have been applied for when the application accompanied by the
24 required fee has been delivered to the department or deposited in the mail properly
25 addressed and with postage prepaid.

1 **SECTION 25.** 342.06 (title) of the statutes is amended to read:

2 **342.06** (title) ~~Application for~~ **Additional** **certificate of title** **application**
3 **information.**

4 **SECTION 26.** 342.06 (1) (intro.) of the statutes, as affected by 2005 Wisconsin

5 Acts 25 and 59, is repealed and recreated to read:

6 **342.06 (1)** (intro.) An application for a certificate of title shall be made to the
7 department upon a form or in an automated format prescribed by it. Information
8 obtained by the department under this subsection shall be provided to the
9 department of revenue for the purposes of administering state taxes and collecting
10 debt. Each application for certificate of title shall include the information specified
11 in s. 342.009 and the following information:

 ****NOTE: The revisor has determined that the treatments of this provision in 2005
Wisconsin Acts 25 and 59 are mutually inconsistent. This provision incorporates the
changes made in Act 59 and makes additional changes.

12 **SECTION 27.** 342.06 (1) (a) to (c) of the statutes are repealed.

13 **SECTION 28.** 342.06 (1) (d) of the statutes is amended to read:

14 **342.06 (1)** (d) If the vehicle is a new vehicle being registered for the first time,
15 the signature of a dealer authorized to sell that new vehicle, the total of the number
16 of tires normally used on the vehicle during its operation on the highways plus the
17 number of any spare tires with which the vehicle is normally equipped and ~~the~~
18 ~~manufacturer's document~~ **any certificate of origin as required under s. 342.009.** ~~The~~
19 ~~document of origin shall contain the information specified by the department.~~

20 **SECTION 29.** 342.06 (1) (e) to (eh) of the statutes are repealed.

21 **SECTION 30.** 342.06 (1) (f) of the statutes is amended to read:

22 **342.06 (1)** (f) If the identification number of the vehicle has been removed,
23 obliterated or altered, or if the original casting has been replaced, or if the vehicle has

1 not been numbered by the manufacturer, the application for certificate of title shall
2 so state. If the identification number of the vehicle was originally based on an engine
3 number and the engine number is no longer pertinent to the vehicle because of
4 subsequent engine changes and no other manufacturer's identification number,
5 chassis number or serial number exists, the department shall assign a new
6 identification number for the vehicle under s. ~~342.30 (1m)~~ 342.006.

7 **SECTION 31.** 342.06 (1) (g) of the statutes is repealed.

8 **SECTION 32.** 342.06 (1) (j) of the statutes is repealed.

9 **SECTION 33.** 342.065 (1) (a) and (b) of the statutes are amended to read:

10 342.065 (1) (a) ~~A Subject to s. 218.23 (1), a purchaser of a salvage vehicle that~~
11 ~~is not currently titled as a salvage vehicle shall, promptly after delivery to him or her~~
12 ~~of the salvage vehicle, apply for a salvage vehicle certificate of title by submitting to~~
13 ~~the department the properly assigned certificate of title under s. 342.15 (1) (e) or~~
14 ~~other evidence of ownership, the applicant's statement that the vehicle is a salvage~~
15 ~~vehicle, an application for a salvage certificate of title and the required fee and by~~
16 complying with the requirements under s. 342.009.

17 (b) ~~The Subject to s. 218.23 (1), the owner of a salvage vehicle that is not~~
18 ~~currently titled as a salvage vehicle shall promptly apply for a salvage vehicle~~
19 ~~certificate of title by submitting to the department the certificate of title for the~~
20 ~~vehicle or other evidence of ownership, the applicant's statement that the vehicle is~~
21 ~~a salvage vehicle, an application for a salvage certificate of title and the required fee~~
22 and by complying with the requirements under s. 342.009. This paragraph does not
23 apply to a salvage vehicle that is purchased by a salvage vehicle purchaser subject
24 to the requirements of par. (a).

25 **Section 34.** 342.065 (3) of the statutes is amended to read:

1 342.065 **(3)** Upon compliance with the requirements of sub. (1), the department
2 shall ~~issue~~ create a salvage vehicle certificate of title for the vehicle. The certificate
3 shall include the words “This is a salvage vehicle”.

4 **SECTION 35.** 342.07 (1) (intro.) and (d) of the statutes are consolidated,
5 renumbered 342.07 (1) and amended to read:

6 342.07 **(1)** Application for registration of and a new certificate of title for a
7 repaired salvage vehicle ~~must~~ shall be made in compliance with the requirements
8 under s. 342.009 and shall also be accompanied by all of the following: ~~(d) The the~~
9 certificate of inspection under sub. (4).

10 **SECTION 36.** 342.07 (1) (a) to (c) of the statutes are repealed.

11 **SECTION 37.** 342.07 (2) (intro.) of the statutes is amended to read:

12 342.07 **(2)** (intro.) A repaired salvage vehicle may not be registered or ~~be issued~~
13 may not have a new certificate of title created until an inspector authorized by the
14 department examines it for the following, as specified in rules promulgated by the
15 department:

16 **SECTION 38.** 342.08 (title) of the statutes is amended to read:

17 **342.08 (title) Department to examine stolen vehicle records; record**
18 **maintenance.**

19 **SECTION 39.** 342.08 of the statutes is renumbered 342.08 (1), and 342.08 (1) (a),
20 as renumbered, is amended to read:

21 342.08 **(1)** (a) Before ~~issuing~~ creating a certificate of title for a vehicle last
22 previously registered in another jurisdiction.

23 **SECTION 40.** 342.09 (title), (1) and (2) of the statutes are repealed.

24 **SECTION 41.** 342.09 (3) of the statutes is renumbered 342.14 (9).

25 **SECTION 42.** 342.10 (title) of the statutes is amended to read:

1 **342.10** (title) ~~Contents~~ Additional contents of certificate of title.

2 **SECTION 43.** 342.10 (1) (intro.) of the statutes is amended to read:

3 342.10 **(1)** (intro.) ~~Each~~ In addition to the information specified in s. 342.011,
4 each certificate of title ~~issued~~ created by the department shall contain:

5 **SECTION 44.** 342.10 (1) (a) and (b) of the statutes are repealed.

6 **SECTION 45.** 342.10 (1) (bm) of the statutes is amended to read:

7 342.10 **(1)** (bm) Notwithstanding s. ~~342.02 (2)~~ 342.04 (2), if the applicant is
8 named in a statewide support lien docket provided under s. 49.854 (2) (b), a notation
9 stating “Per section 49.854 (2) of the Wisconsin Statutes, the state of Wisconsin has
10 a lien on this vehicle for unpaid support.”

11 **SECTION 46.** 342.10 (1) (d) and (e) of the statutes are repealed.

12 **SECTION 47.** 342.10 (2) (a) (intro.) of the statutes is renumbered 342.10 (2)
13 (intro.) and amended to read:

14 342.10 **(2)** (intro.) ~~The~~ In addition to the form described in s. 342.011 (5), the
15 certificate of title shall contain spaces for all of the following:

16 **SECTION 48.** 342.10 (2) (a) 1. and (b) of the statutes are repealed.

17 **SECTION 49.** 342.10 (3) (intro.) of the statutes is amended to read:

18 342.10 **(3)** (intro.) Before ~~issuing~~ creating a new or duplicate certificate of title
19 for a motor vehicle, the department shall permanently record any of the following
20 information, if applicable, on such certificate:

21 **SECTION 50.** 342.10 (5) of the statutes is amended to read:

22 342.10 **(5)** A certificate of title ~~issued~~ created by the department is prima facie
23 evidence of the facts appearing on it.

****NOTE: Because I did not find a provision in UCOTA equivalent to or inconsistent with
sub. (5), I did not repeal sub. (5).

1 SECTION 51. 342.10 (6) of the statutes is repealed.

2 SECTION 52. 342.11 (title) of the statutes is amended to read:

3 342.11 (title) ~~Grounds~~ Additional grounds for refusing issuance
4 creation of certificate of title.

5 SECTION 53. 342.11 (intro.) of the statutes is amended to read:

6 342.11 (intro.) ~~The~~ In addition to the reasons set forth in s. 342.01 (1) and (3),
7 the department shall refuse ~~issuance~~ creation of a certificate of title ~~if any required~~
8 ~~fee has not been paid or~~ for any of the following reasons:

9 SECTION 54. 342.11 (1) and (2) of the statutes are repealed.

10 SECTION 55. 342.11 (4) of the statutes is amended to read:

11 342.11 (4) Except as provided in ss. 342.05 (5) and 342.16 (1) (a) for a certificate
12 of title and registration for a vehicle owned by a nonresident, the applicant is a
13 nonresident and the issuance creation of a certificate of title has not otherwise been
14 authorized by rule of the department. Any temporary operation permit or plate
15 issued under s. 341.09 shall not be considered registration of the vehicle for purposes
16 of this subsection.

17 SECTION 56. 342.12 (title) of the statutes is amended to read:

18 342.12 (title) ~~Withholding~~ Additional reasons for withholding
19 certificate of title; bond.

20 SECTION 57. 342.12 (1) to (3) of the statutes are repealed.

21 SECTION 58. 342.12 (4) (a), (b) and (c) of the statutes are renumbered 342.12
22 (1m), (2m) and (3m), and 342.12 (1m), (2m) and (3m) (a) (intro.), 1., 3. and 4. and (b),
23 as renumbered, are amended to read:

24 342.12 (1m) The district attorney shall notify the department when he or she
25 files a criminal complaint against a person who has been arrested for violating s.

1 346.63 (1) or (2), 940.09 (1) or 940.25 and who has 2 or more prior convictions,
2 suspensions or revocations, as counted under s. 343.307 (1). Except as provided
3 under ~~par. (e)~~ sub. (3), the department may not ~~issue~~ create a certificate of title
4 transferring ownership of the motor vehicle owned by the person and involved in the
5 violation upon receipt of a notice under this subsection until the court assigned to
6 hear the criminal complaint issues an order permitting the department to ~~issue~~
7 create a certificate of title.

8 **(2m)** Except as provided under ~~par. (e)~~ sub. (3m), the department may not ~~issue~~
9 create a certificate of title transferring ownership of the motor vehicle owned by a
10 person and involved in the violation upon receipt of a notice of intent to revoke the
11 person's operating privilege under s. 343.305 (9) (a), if the person has 3 or more prior
12 convictions, suspensions or revocations, as counted under s. 343.307 (1), until the
13 court assigned to the hearing under s. 343.305 (9) issues an order permitting the
14 department to ~~issue~~ create a certificate of title.

15 **(3m)** (a) (intro.) The department shall ~~issue~~ create a certificate of title
16 transferring ownership of a motor vehicle that was subject to the restrictions under
17 ~~par. (a) or (b)~~ sub. (1m) or (2m) if all of the following conditions are met:

18 1. The person requesting the ~~issuance~~ creation of the certificate of title
19 purchased the motor vehicle in good faith and without knowledge of the criminal
20 complaint described in ~~par. (a)~~ sub. (1m) or of the notice of intent to revoke a person's
21 operating privilege under ~~par. (b)~~ sub. (2m).

22 3. The person requesting the ~~issuance~~ creation of the certificate of title files an
23 affidavit with the department attesting that the conditions under ~~subd. 1. a. and b.~~
24 subds. 1. and 2. are met.

1 4. The department has no valid reason for not ~~issuing~~ creating a certificate of
2 title other than the prohibitions under ~~par. (a) or (b)~~ sub. (1m) or (2m).

3 (b) Any person providing a false affidavit under subd. ~~1. e. 3.~~ shall forfeit not
4 more than \$1,000.

5 **SECTION 59.** 342.13 (title) of the statutes is repealed.

6 **SECTION 60.** 342.13 (1) of the statutes is renumbered 342.12 (3m) (c) and
7 amended to read:

8 342.12 **(3m)** (c) ~~If a certificate of title is lost, stolen, mutilated, or destroyed, or~~
9 ~~becomes illegible, the owner or legal representative of the owner named in the~~
10 ~~certificate, as shown by the records of the department, shall promptly make~~
11 ~~application for and may obtain a replacement upon furnishing information~~
12 ~~satisfactory to the department. The replacement certificate of title shall contain a~~
13 ~~notation, in a form determined by the department, identifying the certificate as a~~
14 ~~replacement certificate that may be subject to the rights of a person under the~~
15 ~~original certificate. If applicable under s. 346.65 (6), the~~ a replacement certificate of
16 title created under s. 342.024 shall also include the notation "Per section 346.65 (6)
17 of the Wisconsin statutes, ownership of this motor vehicle may not be transferred
18 without prior court approval".

19 **SECTION 61.** 342.13 (3) of the statutes is repealed.

20 **SECTION 62.** 342.15 (title) of the statutes is amended to read:

21 **342.15 (title)** **Transfer of interest in a Additional vehicle transfer**
22 **requirements.**

23 **SECTION 63.** 342.15 (1) (a), (c) and (d) and (3) of the statutes are repealed.

24 **SECTION 64.** 342.15 (1) (bm) of the statutes is renumbered 342.15 (1m).

25 **SECTION 65.** 342.15 (2) of the statutes is amended to read:

1 342.15 (2) Except as provided in s. 342.16, ~~the transferee shall, promptly after~~
2 ~~delivery to him or her of the vehicle, execute the application for a new certificate of~~
3 ~~title in the space provided on the certificate or as the department prescribes, and~~
4 ~~deliver or mail the certificate and application to the department~~ if upon transfer of
5 a vehicle as provided in s. 342.016 (1) the certificate of title is executed to the buyer,
6 the buyer shall promptly apply for a new certificate of title as provided in s. 342.009.
7 A salvage vehicle purchaser shall comply with s. 342.065 (1) (a).

 ****NOTE: I have retained this provision of current law because I have not found any provision of UCOTA that requires the buyer to apply for a new title or that is directly inconsistent with this provision. However, I am not certain whether this was an intentional or inadvertent omission of the UCOTA drafters. Certain provisions of UCOTA specify consequences or lack of consequences if the transferee fails to apply for a new certificate of title. Perhaps these consequences were intended by the UCOTA drafters to be the exclusive provisions on the issue and these drafters decided not to mandate that a transferee apply for a new certificate of title, in which case s. 342.15 (2) and (6) should be repealed rather than amended here.

8 **SECTION 66.** 342.15 (5) of the statutes is amended to read:

9 342.15 (5) Any owner of a vehicle for which a certificate of title has been ~~issued~~
10 created, who upon transfer of the vehicle fails to ~~execute and deliver the assignment~~
11 ~~and warranty of title required by sub. (1)~~ comply with any applicable requirement
12 under s. 342.016 (1), (2), and (4), may be required to forfeit not more than \$500.

13 **SECTION 67.** 342.15 (5m) of the statutes is amended to read:

14 342.15 (5m) (a) Except as provided in par. (b), any person who violates sub. (1)
15 ~~(bm)~~ (1m) may be required to forfeit not more than \$1,000.
16 (b) Any person who violates sub. (1) ~~(bm)~~ (1m) with intent to defraud may be
17 fined not more than \$5,000.

18 **SECTION 68.** 342.15 (6) of the statutes is amended to read:

19 342.15 (6) (a) Except as provided in s. 342.16, any transferee of a vehicle who
20 fails to make application for a new certificate of title ~~immediately upon transfer to~~

1 ~~him or her of a vehicle in compliance with sub. (2)~~ may be required to forfeit not more
2 t han \$200. ~~A certificate is considered to have been applied for when the application~~
3 ~~accompanied by the required fee has been delivered to the department or deposited~~
4 ~~in the mail properly addressed with postage prepaid.~~

5 (b) Except as provided in s. 342.16, any transferee of a vehicle who with intent
6 to defraud fails to make application for a new certificate of title ~~immediately upon~~
7 ~~transfer to him or her of a vehicle in compliance with sub. (2)~~ may be fined not more
8 than \$1,000 or imprisoned for not more than 30 days or both. A certificate is
9 ~~considered to have been applied for when the application accompanied by the~~
10 ~~required fee has been delivered to the department or deposited in the mail properly~~
11 ~~addressed with postage prepaid.~~

12 **SECTION 69.** 342.16 (1) (a) of the statutes, as affected by 2005 Wisconsin Act 25,
13 is amended to read:

14 342.16 **(1)** (a) Except as provided in par. (c), and notwithstanding s. 342.016 (1),
15 if a dealer acquires a new or used vehicle that is not a salvage vehicle and holds it
16 for resale, or acquires a salvage vehicle that is currently titled as a salvage vehicle
17 and holds it for resale or accepts a vehicle for sale on consignment, the dealer may
18 not submit to the department the certificate of title or application for certificate of
19 title naming the dealer as owner of the vehicle. Upon transferring the vehicle to
20 another person, the dealer shall immediately give the transferee on a form
21 prescribed by the department a receipt for all title, registration, security interest,
22 and sales tax moneys paid to the dealer for transmittal to the department when
23 required. The dealer shall promptly ~~execute the assignment and warranty~~ sign the
24 certificate of title or a record evidencing an electronic certificate of title as provided
25 under s. 342.016 (1), showing the name and address of the transferee and of any

1 secured party holding a security interest created or reserved at the time of the resale
2 o r sale on consignment, in the spaces provided therefor on the certificate or record
3 evidencing an electronic certificate or as the department prescribes. Within 7
4 business days following the sale or transfer, the dealer shall process the application
5 for certificate of title, and within the next business day after processing the
6 application, the dealer shall mail or deliver the original application for certificate
7 and all associated materials required by the department to the department. A
8 nonresident who purchases a motor vehicle from a dealer in this state may not,
9 unless otherwise authorized by rule of the department, apply for a certificate of title
10 ~~issued~~ created for the vehicle in this state unless the dealer determines that a title
11 is necessary to protect the interests of a secured party. The dealer is responsible for
12 determining whether a title and perfection of security interest is required. The
13 dealer is liable for any damages incurred by the department or any secured party for
14 the dealer's failure to perfect a security interest which the dealer had knowledge of
15 at the time of sale.

16 **SECTION 70.** 342.16 (1) (c) of the statutes is amended to read:

17 342.16 **(1)** (c) ~~Except~~ Notwithstanding s. 342.016 (1), except when all available
18 spaces for a dealer's or wholesaler's reassignment on a certificate of title have been
19 completed or as otherwise authorized by rules of the department, a dealer or
20 wholesaler who acquires a new or used vehicle that is not a salvage vehicle and holds
21 it for resale, or acquires a salvage vehicle that is currently titled as a salvage vehicle
22 and holds it for resale or accepts a vehicle for sale on consignment may not apply for
23 a certificate of title naming the dealer or wholesaler as owner of the vehicle. The
24 rules may regulate the frequency of application by a dealer or wholesaler for transfer
25 of registration or credits for registration from a previously registered vehicle to

1 another vehicle that the dealer or wholesaler intends to register in his or her own
2 name.

3 **SECTION 71.** 342.17 (title) of the statutes is amended to read:

4 **342.17 (title) Involuntary Additional requirements related to**
5 **involuntary transfers.**

6 **SECTION 72.** 342.17 (1) and (2) of the statutes are repealed.

7 **SECTION 73.** 342.17 (3) of the statutes is renumbered 342.17 and amended to
8 read:

9 342.17-A The department shall make demand for any outstanding certificate
10 of title from a person holding a certificate of title whose interest in the vehicle has
11 been extinguished or transferred other than by voluntary transfer under s. 342.021
12 or 342.022, and the person shall mail or deliver the certificate to the department
13 upon request of the department. The delivery of the certificate pursuant to the
14 request of the department does not affect the rights of the person surrendering the
15 certificate, and the action of the department in issuing a new certificate of title as
16 provided herein is not conclusive upon the rights of an owner or secured party named
17 in the old certificate.

****NOTE: This provision is combined with the last sentence of s. 342.18 (2),
stats., which was moved to the beginning of this provision. While this provision is not
directly inconsistent with UCOTA, it also may not be consistent with the intent of the
UCOTA drafters. See ****NOTE after s. 342.15 (2) above.

18 **SECTION 74.** 342.17 (4) of the statutes is repealed.

19 **SECTION 75.** 342.18 (title), (1) and (2) of the statutes are repealed.

20 **SECTION 76.** 342.18 (3) of the statutes is renumbered 342.08 (3) and amended
21 to read:

22 342.08 (3) ~~The~~ Except as provided in s. 342.028, the department shall retain
23 for 5 years a record of every surrendered certificate of title, the record to be

1 maintained as provided under s. 342.014 so as to permit the tracing of title of the
2 vehicle designated therein.

3 **SECTION 77.** 342.18 (4) of the statutes is renumbered 342.05 (3m), and 342.05
4 (3m) (intro.), (a) and (b), as renumbered, are amended to read:

5 342.05 **(3m)** (intro.) Under each of the following circumstances only, the
6 department shall ~~issue~~ create a certificate of title for a transferred vehicle without
7 requiring registration of the vehicle:

8 (a) Whenever application therefor accompanied by the required fee is made by
9 a finance company licensed under ss. 138.09 or 218.0101 to 218.0163, a bank
10 organized under the laws of this state, or a national bank located in this state, and
11 the vehicle in question is a used vehicle for which the department had ~~issued~~ created
12 a certificate of title ~~to~~ for the previous owner or a vehicle previously registered in
13 another jurisdiction or is a recreational vehicle.

14 (b) Whenever application therefor accompanied by the required fee is made by
15 any other person and the vehicle in question is a vehicle for which the department
16 had ~~issued~~ created a certificate of title ~~to~~ for the previous owner or is a vehicle
17 previously registered in another jurisdiction or is a recreational vehicle and the
18 department is satisfied that the present owner has not operated or consented to the
19 operation of the vehicle since it was transferred to that owner and that he or she
20 understands that the certificate of title merely is evidence of ownership of the vehicle
21 and does not authorize operation of the vehicle on the highways of this state.

22 **SECTION 78.** 342.19, 342.195, 342.20, 342.21, 342.22, 342.23 and 342.24 of the
23 statutes are repealed.

24 **SECTION 79.** 342.25 (1) (intro.) of the statutes is amended to read:

1 342.25 (1) (intro.) The Notwithstanding s. 342.01 (4), the department shall
2 suspend or revoke a certificate of title if it finds any of the following:

3 **SECTION 80.** 342.25 (1) (a) of the statutes is amended to read:

4 342.25 (1) (a) The certificate of title was fraudulently procured, erroneously
5 ~~issued~~ created, or prohibited by law.

6 **SECTION 81.** 342.255 (intro.) of the statutes is amended to read:

7 **342.255 Cancellation of title or registration.** (intro.) The
8 Notwithstanding s. 342.01 (4), the department shall cancel a title or registration
9 whenever:

10 **SECTION 82.** 342.255 (3) of the statutes is amended to read:

11 342.255 (3) It is subsequently discovered that the creation, issuance, or
12 possession of a title or registration is prohibited by law or that the odometer of a
13 vehicle for which a certificate of title has been ~~issued~~ created by the department has
14 been subjected to tampering and return of the certificate of title to the department
15 is considered necessary to make a notation of that information on the certificate.

16 **SECTION 83.** 342.30 (1m) of the statutes is amended to read:

17 342.30 (1m) When the department is satisfied as to the ownership of a vehicle
18 subject to registration which has not been numbered by the manufacturer or on
19 which the original number has been removed, obliterated or altered or on which the
20 original casting has been replaced or on which a new identification number is
21 required under s. 342.06 (1) (f), the department shall assign a new identification
22 number for each such vehicle as provided in s. 342.006.

23 **SECTION 84.** 342.34 (3) of the statutes is amended to read:

24 342.34 (3) No certificate of title may be ~~issued~~ created for a junk vehicle or for
25 a vehicle which has been junked or destroyed.

1 **SECTION 85.** 342.34 (3m) of the statutes is amended to read:

2 342.34 **(3m)** In determining whether a vehicle meets the definition of a junk
3 vehicle for purposes of this section ~~or s. 342.15 (1) (a)~~, the department may
4 promulgate rules specifying the conditions under which a vehicle shall be considered
5 incapable of operation or use upon a highway.

6 **SECTION 86.** 344.185 (2) (d) of the statutes is amended to read:

7 344.185 **(2)** (d) If the vehicle is sold, any person who is the holder of a security
8 interest which is perfected under s. ~~342.19~~ 342.026 shall be notified of the sale and
9 any person who holds a security interest, mortgage or other interest in the vehicle
10 and who acquired the security interest, the mortgage or other interest in good faith
11 may file a claim within 30 days after the sale with the department.

12 **SECTION 87.** 344.185 (2) (e) 1. of the statutes is amended to read:

13 344.185 **(2)** (e) 1. The money from the sale of a vehicle shall be used first for
14 payment of all proper expenses of impounding, preparing for the sale and selling the
15 vehicle, including expenses for seizure, maintenance of custody and advertising.
16 Any remaining money may be paid to a claimant under par. (d) in the priority
17 provided under s. ~~342.19~~ subch. I of ch. 342 and ch. 409.

18 **SECTION 88.** 346.65 (6) (a) 2m. of the statutes is amended to read:

19 346.65 **(6)** (a) 2m. A person who owns a motor vehicle subject to seizure under
20 this paragraph shall surrender to the clerk of circuit court the certificate of title
21 ~~issued~~ created under ch. 342 for the motor vehicle that is subject to seizure. The
22 person shall comply with this subdivision within 5 working days after receiving
23 notification of this requirement from the district attorney. When a district attorney
24 receives a copy of a notice of intent to revoke the operating privilege under s. 343.305
25 (9) (a) of a person who has 2 or more prior convictions, suspensions or revocations,

1 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
2 other convictions, suspensions or revocations counted under s. 343.307 (1), or when
3 a district attorney notifies the department of the filing of a criminal complaint
4 against a person under s. 342.12 ~~(4) (a)~~ (1m), the district attorney shall notify the
5 person of the requirement to surrender the certificate of title to the clerk of circuit
6 court. The notification shall include the time limits for that surrender, the penalty
7 for failure to comply with the requirement and the address of the clerk of circuit
8 court. The clerk of circuit court shall promptly return the certificate of title
9 surrendered to the clerk of circuit court under this subdivision after stamping the
10 certificate of title with the notation "Per section 346.65 (6) of the Wisconsin statutes,
11 ownership of this motor vehicle may not be transferred without prior court approval".
12 Any person failing to surrender a certificate of title as required under this
13 subdivision shall forfeit not more than \$500.

14 **SECTION 89.** 346.65 (6) (k) of the statutes is amended to read:

15 346.65 **(6)** (k) Except as provided in par. (km), no person may transfer
16 ownership of any motor vehicle that is subject to seizure under this subsection or
17 make application for a new certificate of title under s. ~~342.18~~ 342.009 for the motor
18 vehicle unless the court determines that the transfer is in good faith and not for the
19 purpose of or with the effect of defeating the purposes of this subsection. The
20 department may cancel a title or refuse to ~~issue~~ create a new certificate of title in the
21 name of the transferee as owner to any person who violates this paragraph. This
22 paragraph does not prohibit any application and transfer under s. 342.021 or
23 342.022.

24 **SECTION 90.** 346.65 (6) (km) of the statutes is amended to read:

346.65 (6) (km) If a person purchases a motor vehicle in good faith and without knowledge that the motor vehicle was subject to immobilization or seizure or to equipping with an ignition interlock device under this subsection and the department has no valid reason for not ~~issuing~~ creating a certificate of title other than the prohibition under par. (k), the department shall ~~issue~~ create a new certificate of title ~~in the name of~~ naming the person requesting the new certificate of title as the owner of record if at the time of the purchase of the motor vehicle the certificate of title did not contain the notation stamped on the certificate of title by the clerk of circuit court under par. (a) 2m. and if the person submits the affidavit required under s. 342.12 ~~(4) (e) 1. e. (3m) (a) 3.~~

SECTION 91. 409.311 (1) (b) of the statutes is amended to read:

409.311 (1) (b) The following vehicle title statutes: ss. ~~342.19 and 342.20~~
statute: s. 342.026.

SECTION 92. 700.22 (3) of the statutes is repealed.

SECTION 93. Effective date.

(1) This act takes effect on the first day of the 13th month beginning after publication.

(END)

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