MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Ford (54th) To: Insurance

HOUSE BILL NO. 267

AN ACT TO AMEND SECTION 83-11-551, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AN INSURER TO DIRECT AN AUCTION FIRM TO RELEASE A VEHICLE TO THE VEHICLE'S OWNER OR LIENHOLDER WHEN THE INSURER DOES NOT TAKE OWNERSHIP OF THE VEHICLE; TO REQUIRE NOTICE TO THE OWNER AND LIENHOLDER THAT THE VEHICLE IS AVAILABLE FOR PICK UP; TO PROVIDE FOR A LIEN-FREE SALVAGE CERTIFICATE OF TITLE OR A PARTS-ONLY CERTIFICATE OF TITLE TO AN AUCTION FIRM IF THE OWNER OR LIENHOLDER DOES NOT PICK UP THE VEHICLE WITHIN A CERTAIN NUMBER OF DAYS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-11-551, Mississippi Code of 1972, is amended as follows:

83-11-551. (1) In cases in which there is not a total loss, when there are one or more lienholders shown in the policy or confirmed in writing by the insured before the loss, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in Section 83-11-1, shall add as a payee on the check, in addition to the name of the insured, the name of the business or other entity repairing the automobile or the name of the lienholder or lienholders.

(2) In cases of a total loss, when there are one or more lienholders (a) shown in the policy, (b) confirmed in writing by the insured before the loss, or (c) shown on the vehicle title recorded with the Mississippi Department of Revenue, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in Section 83-11-1, shall add as a payee on the check, in addition to the name of the insured, the name of the lienholder or lienholders.

(3) If the insured disputes the existence of any lien, it is the insured's responsibility to have the liens released. When payment is made to a lienholder, the lienholder shall pay any balance owed to the debtor within thirty (30) days after receipt of the check. However, in the case of a total loss, the insurer may issue separate checks to the lienholder and to the insured for the amount of each party's financial interest in the vehicle. This section shall not apply to the repair or replacement of glass in the vehicle.

(4) If an insurance company makes a total loss settlement on a motor vehicle, the owner or lienholder of the motor vehicle shall forward the properly endorsed certificate of title to the insurance company within fifteen (15) days after receipt of the settlement funds.

(5) (a) If an insurance company is unable to obtain the properly endorsed certificate of title within *** * *** fifteen (15)

days after disbursing a total loss settlement payment for a motor vehicle that does not have a lien or encumbrance, the insurance company or its agent may request the Department of Revenue to issue a salvage certificate of title or a parts-only certificate of title for the vehicle.

(b) The request under paragraph (a) of this subsection shall:

(i) Be submitted on each form required by and provided by the Department of Revenue which may be completed by the insurance company or its agent;

(ii) *** * *** Attest on the form required in subparagraph (i) that the insurance company or its agent has made at least two (2) *** * *** attempts to obtain the certificate of title *** * ***;

(iii) Include any fees applicable to the issuance of a salvage certificate of title or a parts-only certificate of title; and

(iv) Be signed under penalty of perjury.

(c) Notice under paragraph (b) of this subsection shall be provided concurrently with the payment of the claim or by either first-class mail to the last known address or other commercially available delivery service or electronic means, including electronic mail or posting on an electronic network or site that is accessible to the vehicle owner via the Internet by

using a mobile application, computer, mobile device, tablet or any other electronic device.

(6) (a) If an insurance company or its agent is unable to obtain the properly endorsed certificate of title within * * * fifteen (15) days after disbursing a total loss settlement payment for a motor vehicle that has a lien or encumbrance, the insurance company or its agent shall * * * attest to the Department of Revenue * * * that * * * the lienholder's interest was protected in the total loss indemnity payment for the claim.

(b) The documentation under paragraph (a) of this subsection shall be:

(i) Submitted with a request for a salvage certificate of title or a parts-only certificate of title for the vehicle; and

(ii) The requirements under subsection (5)(b) of this section.

(7) Upon receipt of a properly endorsed certificate of title or a properly executed request under subsection (5) of this section, the Department of Revenue shall issue a salvage certificate of title or a parts-only certificate of title for the vehicle in the name of the insurance company.

(8) The Department of Revenue may promulgate rules, regulations and forms for the administration of subsections (4) through (6) of this section.

(9) (a) If an insurer requests an auction firm, the primary business of which is the sale of salvage vehicles on behalf of insurers, to take possession of a vehicle that is the subject of an insurance claim and subsequently the insurer does not take ownership of the vehicle, the insurer may direct the auction firm to release the vehicle to the owner or lienholder. The insurer shall provide the auction firm a release statement authorizing the auction firm to release the vehicle to the vehicle's owner or lienholder.

(b) Upon receiving a release statement from an insurer, the auction firm shall send notice to the owner and any lienholder of the vehicle informing the owner or lienholder that the vehicle is available for pick up. The notice shall include an invoice for any outstanding charges owed to the auction firm. The notice shall inform the owner and any lienholder that the owner or lienholder has thirty (30) days from the date of the notice, and upon payment of applicable charges owed to the auction firm, to pick up the vehicle from the auction firm. Notice under this subsection must be sent by certified mail to the last known address or by another commercially available delivery service providing proof of delivery to the address on record with the department.

(c) If the owner or any lienholder of the vehicle does not pick up the vehicle within thirty (30) days after notice was sent to the owner and any lienholder in accordance with this

subsection (9), the vehicle shall be considered abandoned, the vehicle's certificate of title is deemed to be assigned to the auction firm, and the auction firm, without surrendering the certificate of title, may request on a form provided by the department that the department shall issue a lien-free salvage certificate of title or a parts-only certificate of title for the vehicle. The request shall be accompanied by a copy of the notice required by this subsection (9) and proof of delivery of the notice required by this subsection (9) sent to the owner and any lienholder. Notwithstanding any outstanding liens against the vehicle, the department shall issue a lien-free salvage certificate of title or a parts-only certificate of title for the vehicle to the auction firm in possession of the vehicle.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.