

Insights

Disclosing Fees Paid to BMV Vendors For E-Filing Lien Interests

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Financial institutions offering auto loans to Indiana borrowers will soon be able to record their lien interests electronically. This electronic lien system is only provided by third-party vendors approved by the Indiana Bureau of Motor Vehicles (the "BMV"). These third-party vendors assess a fee to financial institutions directly for using the electronic filing service, but no fee is passed from the third-party vendor to the BMV – **as a result, any fees charged by the third-party vendor facilitating the electronic filing are not considered government fees.**

Financial institutions should carefully monitor how any fees paid to a third-party vendor for electronic lien filings in Indiana are disclosed on vehicle purchase agreements, loan agreements, and federal Truth in Lending disclosures. Because the payment made to the third-party vendor is not paid to a government agency, it is considered a prepaid finance charge under both the Indiana Uniform Consumer Credit Code (the "IUCCC"), and Regulation Z of the Truth in Lending Act, and must be disclosed as such. As a result, any fee paid to a third-party vendor for electronic lien filing in Indiana is subject to the two hundred dollar (\$200) maximum permissible prepaid finance charge limitation under the IUCCC applicable to both credit sales, and consumer loans.¹

Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.

[1] The \$200 prepaid finance limit only applies to consumer credit sales and consumer loans with an amount financed of more than \$4000. See Ind. Code § 24-4.5-2-101(11)(c), and Ind. Code § 24-4.5-3-201(9)(b)(iii) respectively.