ENROLLED

2015 Regular Session

ACT No. 110

HOUSE BILL NO. 445

BY REPRESENTATIVE MACK

AN ACT

To amend and reenact R.S. 32:728(introductory paragraph), (1) and (8) and R.S. 47:532.1(A)(1), (3)(a), and (6) and to enact R.S. 47:532.2 and 532.3, relative to motor vehicles and public tag agents; to provide relative to certain fees for motor vehicle titles and permits; to provide relative to persons who may undertake duties of public tag agents; to provide relative to bonds required to be executed by public tag agents; to provide relative to qualifications for public tag applicants; to provide relative to the suspension, revocation, or cancellation of contracts of public tag agents; to authorize the office of motor vehicles to issue cease and desist order to public tag agents for certain activity; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:728(introductory paragraph), (1) and (8) are hereby amended and reenacted to read as follows:

§728. Fees

Unless required to be waived pursuant to R.S. 32:1729, the ~~The~~ commissioner shall charge the following fees and no others:

(1) Each certificate of title--~~eighteen~~ sixty-eight dollars and fifty cents.

* * *

(8) Each salvage title--~~eighteen~~ sixty-eight dollars and fifty cents.

* * *

Section 2. R.S. 47:532.1(A)(1), (3)(a), and (6) are hereby amended and reenacted and R.S. 47:532.2 and 532.3 are hereby enacted to read as follows:

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§532.1. Public license tag agents; auto title companies; rules and regulations; surety bonds; fees

A.(1) The commissioner may establish a system of public license tag agents to collect the registration license taxes authorized by this Chapter. The system shall consist of municipal and parish governing authorities or new motor vehicle dealers or their agents licensed pursuant to the provisions of R.S. 32:1254 and authorized auto title companies pursuant to the provisions of R.S. 32:735 et seq. No persons, natural or juridical, except public license tag agents, auto title companies, financial institutions, licensed new or used car dealers, recreational product dealers, state departments, offices, or entities and those included in the system established pursuant to this Section shall collect registration license taxes authorized by this Chapter.

* * *

(3) The commissioner shall promulgate rules and regulations to require all public license tag agents other than municipal and parish governing authorities to furnish security for the faithful performance of their duties as follows:

(a) Each public license tag agent other than a municipal governing authority shall execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in a sum of ~~not less than ten thousand dollars nor more than one hundred thousand dollars~~ one hundred thousand dollars should the public tag agent have only one office in this state and in a sum of one hundred twenty-five thousand dollars should the public tag agent have more than one office in this state, if surety bond is available for purchase, which bond shall name the Department of Public Safety and Corrections, office of motor vehicles as obligee and shall be subject to the condition that, if such public license tag agent shall, throughout the entire term of the bond, timely file with the office of motor vehicles all applications delivered to such public tag agent for filing, and all fees and taxes collected by such public license tag agent, the obligation shall be void. If the company does not do so, the obligation of the surety shall remain in full force and effect. ~~A public license tag agent having multiple locations need furnish only a~~

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~~single ten thousand dollar surety bond in addition to any other bonds required by law.~~

* * *

(6)(a) No elected state official or employee of the state shall be allowed to become a public license tag agent.

(b) The office of motor vehicles may deny a contract to any person, natural or juridical, seeking to be a public tag agent if that person has been found to be in violation of any rule or regulation promulgated by the office of motor vehicles pertaining to the issuance of a motor vehicle title, registration, or driver's license within the two-year period prior to the date of application.

* * *

§532.2. Public tag agents; causes for suspension, revocation, cancellation, or restrictions; reinstatement

A. The office of motor vehicles may suspend, revoke, cancel, or impose other restrictions on any contract confected pursuant to R.S. 47:532.1 for the following causes:

(1) Failure to remit taxes and fees collected from applicants for title transfers.

(2) Operating as a public tag agent without a contract for each location, with an expired contract, or without a valid surety bond on file with the office of motor vehicles.

(3) Issuance of more than one temporary registration, T-Marker, to a title applicant, or issuing a T-Marker without first collecting all taxes and fees.

(4) Operating from an unapproved location.

(5) Changing the ownership of the public tag agent and not reporting in writing to the office of motor vehicles within thirty days from the date of such change.

(6) Changing the officers or directors of the public tag agent and not reporting in writing to the office of motor vehicles within thirty days from the date of such change.

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(7) Being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in a material injury to the public records or a shortfall in the collection of taxes owed.

(8) The forwarding to the office of motor vehicles by a public tag agent of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a shortfall in the collection of taxes owed when the public tag agent had knowledge of facts causing such injury or shortfall, and failed to disclose same to the office of motor vehicles.

(9) Conviction of, or entry of a plea of guilty or nolo contendere to, any felony or conviction of, or entry of a plea of guilty or nolo contendere to, any criminal charge an element of which is fraud.

(10) Fraud, deceit, or perjury in obtaining any contract perfected pursuant to R.S. 47:532.1.

(11) Failure to maintain at all times during the term of the contract all qualifications required by R.S. 47:532.1 or by rule adopted by the office of motor vehicles.

(12) Any other cause the office of motor vehicles may establish through the adoption of a rule.

B. Any person whose contract has been suspended, canceled, or revoked during the effective term of the contract may request an administrative hearing to review the office of motor vehicles' action. A request for administrative review shall stay the action of the office of motor vehicles.

§532.3. Public tag agents; cease and desist order; injunctive relief

A. In addition to or in lieu of the administrative sanctions provided in R.S. 47:532.1, 532.2, or any rules or regulations adopted pursuant to either, and any criminal sanctions otherwise provided by law, the office of motor vehicles is empowered to issue an order to any person engaged in any activity, conduct, or practice constituting a violation of R.S. 47:532.1, 532.2, or any rules or regulations adopted pursuant to either, directing such person to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of

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Louisiana under the official seal of the Department of Public Safety and Corrections, office of motor vehicles.

B. If the person to whom the office of motor vehicles directs a cease and desist order does not cease and desist the proscribed activity, conduct, or practice within ten days from service of such cease and desist order by certified mail, the office of motor vehicles may cause to issue a writ of injunction enjoining such person from engaging in any activity, conduct, or practice proscribed by R.S. 47:532.1, 532.2, or any rules or regulations adopted pursuant to either. Such proceeding shall be brought in the district court having civil jurisdiction in any parish in which such person resides, or is domiciled or has his principal place of business. If the person whose contract is to be suspended, revoked, canceled, or otherwise restricted is a nonresident and is not domiciled within the state, such proceeding may be brought in the Nineteenth Judicial District Court for the parish of East Baton Rouge.

C. Upon a proper showing by the office of motor vehicles that such person has engaged or is engaged in any activity, conduct, or practice proscribed by R.S. 47:532.1, 532.2, or any rules or regulations adopted pursuant to either, the court shall issue a temporary restraining order restraining the person from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after a hearing, commanding the cessation of the unlawful activity, conduct, or practice complained of, all without the necessity of the office of motor vehicles having to give bond as usually required in such cases.

D. The trial of the proceeding by injunction shall be a summary proceeding, and shall be tried by the judge alone without a jury.

Section 3. A public tag agent with an existing contract with the Department of Public Safety and Corrections, office of motor vehicles, as of August 1, 2015, shall not be required to obtain a surety bond in the amounts required by R.S. 47:532.1(A)(3)(a) as amended by this Act until the renewal date of the contract. Thereafter, all public tag agents shall be

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required to obtain surety bonds in the amounts required by the provisions of R.S. 47:532.1(A)(3)(a) as amended by this Act.

Section 4. This Act shall become effective on July 1, 2015.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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