

RÉSUMÉ DIGEST

ACT 110 (HB 445)

2015 Regular Session

Mack

Existing law authorizes the commissioner to establish a system of public license tag agents to collect the registration license taxes. Specifies that the system is to consist of municipal and parish governing authorities or new motor vehicle dealers or their agents as well as authorized auto title companies.

New law prohibits persons, natural or juridical, from collecting registration license taxes except public license tag agents, auto title companies, financial institutions, licensed new or used car dealers, state departments, offices or entities, and those included in the system established pursuant to existing law.

Prior law required each public license tag agent other than a municipal governing authority to execute a good and sufficient surety bond with a surety company qualified to do business in La. as surety, in a sum of not less than \$10,000 nor more than \$100,000. Specified that a public license tag agent with multiple locations only had to furnish a single \$10,000 surety bond in addition to any other bonds required by law.

New law removes prior law surety requirements and instead requires each public license tag agent other than a municipal governing authority to execute a good and sufficient surety bond with a surety company qualified to do business in La. as surety, in a sum of \$100,000 should the public tag agent have only one office in this state and in a sum of \$125,000 should the public tag agent have more than one office in this state.

New law provides that the office of motor vehicles (OMV) 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.

New law authorizes OMV to suspend, revoke, cancel, or impose other restrictions on any public tag agent contract confected pursuant to existing law 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 OMV.
- (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 OMV within 30 days from the date of such change.
- (6) Changing the officers or directors of the public tag agent and not reporting in writing to OMV within 30 days from the date of such change.
- (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 OMV 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 OMV.
- (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 existing law.
- (11) Failure to maintain at all times during the term of the contract all qualifications required by existing law or by rule adopted by OMV.
- (12) Any other cause OMV may establish through the adoption of a rule.

New law provides that any person whose public tag agent contract has been suspended, canceled, or revoked during the effective term of the contract may request an administrative hearing to review OMV's action. A request for administrative review shall stay the action of OMV.

New law provides that OMV may issue an order to any person engaged in any activity, conduct, or practice constituting a violation of existing law or new law relating to public tag agent contracts or any rules or regulations adopted pursuant to existing law or new law, directing such person to cease and desist from such activity, conduct, or practice.

New law provides that if the person to whom OMV directs a cease and desist order does not cease and desist the proscribed activity, conduct, or practice within 10 days from service of such cease and desist order by certified mail, OMV may cause to issue a writ of injunction enjoining such person from engaging in any activity, conduct, or practice proscribed by existing law or new law relating to public tag agents, or any rules or regulations adopted pursuant to either.

New law provides that 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 19th Judicial District Court for the parish of East Baton Rouge.

New law provides that upon a proper showing by OMV that such person has engaged or is engaged in any activity, conduct, or practice proscribed by existing law or new law relating to public tag agent contracts 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 hearing, commanding the cessation of the unlawful activity, conduct, or practice complained of, all without the necessity of OMV having to give bond as usually required in such cases.

New law provides that the trial of the proceeding by injunction shall be a summary proceeding, and shall be by the judge alone without a jury.

New law provides that a public tag agent with an existing contract with the Dept. of Public Safety and Corrections, OMV, as of Aug. 1, 2015, shall not be required to obtain a surety bond in the amounts required by new law until the renewal date of the contract. Thereafter, all public tag agents shall be required to obtain surety bonds in the amounts required by the provisions of new law.

New law increases the fees which may be charged by the Department of Public Safety and Corrections, the commissioner of OMV, for each certificate of title from \$18.50 to \$68.50, and for each salvage title, from \$18.50 to \$68.50.

Effective July 1, 2015.

(Amends R.S. 32:728(1) and (8) and R.S. 47:532.1(A)(1), (3)(a), and (6); Adds R.S. 47:532.2 and 532.3)