

Regular Session, 2011

HOUSE BILL NO. 400

BY REPRESENTATIVE CORTEZ

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/AUTOMOBILE: Allows rental dealers to maintain a bond or deposit of cash or securities in lieu of a contingent automobile liability policy of insurance

1 AN ACT

2 To amend and reenact R.S. 32:793(D), relative to automobile liability insurance; to allow  
3 rental dealers to maintain a bond in lieu of a contingent automobile liability policy;  
4 to allow rental dealers to make a deposit with the state treasurer in lieu of  
5 maintaining a contingent automobile liability policy; to define "contingent  
6 automobile liability bond"; to establish a procedure to deposit cash or securities with  
7 the state treasurer; to establish a procedure for the state treasurer to pay judgments;  
8 to exempt the state treasurer from liability; to provide for the deposit of cash in a  
9 savings account; to provide for interest earned on the deposit; to provide for the  
10 change of securities; to provide for low balances; to exempt deposited cash and  
11 securities from attachment; to provide for release of deposited cash and securities;  
12 and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 32:793(D) is hereby amended and reenacted to read as follows:

15 §793. Rent with option-to-purchase program

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17 D.(1) Every rental dealer shall maintain a contingent automobile liability  
18 policy of insurance with minimum limits of one hundred thousand dollars per  
19 occurrence, three hundred thousand dollars aggregate, and fifty thousand dollars in  
20 property damage, or a contingent automobile liability bond as defined by Paragraph

1        (D)(2) of this Section, or a certificate of the state treasurer stating that cash or  
2        securities have been deposited or securitized with the treasurer as provided by  
3        Paragraph (D)(3) of this Section. It shall not be sufficient for any rental dealer to  
4        share in a policy of insurance, which could, under any circumstance, create a limit  
5        of less than that set forth herein. Such policy shall be placed, if available, through  
6        an insurance company licensed by and admitted in the state of Louisiana.

7                (2) "Contingent automobile liability bond" means a bond posted with the  
8        state treasurer in the amount of one hundred fifty thousand dollars in lieu of  
9        maintaining the required contingent automobile liability policy of insurance.

10               (3)(a)(i) The rental dealer may, in lieu of procuring a contingent automobile  
11        liability bond or policy, deposit with the state treasurer cash in the amount of one  
12        hundred fifty thousand dollars, or otherwise pledge, assign, or securitize, to the  
13        satisfaction of the state treasurer on such forms and documents as he shall require,  
14        which shall constitute a lien thereon in favor of the treasurer for the liabilities set  
15        forth in this Section and authorize him to sell same pursuant to Item (iii) of this  
16        Subparagraph, bonds, stocks, securities, or other evidences of indebtedness  
17        satisfactory to the treasurer of a market value of not less than one hundred fifty  
18        thousand dollars.

19               (ii) Upon presentation to the state treasurer by an officer qualified to serve  
20        civil process of an execution issued on any final nonappealable, nonreviewable  
21        judgment against the rental dealer that would otherwise be covered by a contingent  
22        automobile liability policy of insurance, the treasurer shall pay, out of the cash  
23        deposited by the rental dealer as herein provided, the amount of the execution,  
24        including costs and interest, up to but not in excess of one hundred thousand dollars  
25        per occurrence and fifty thousand dollars in property damage.

26               (iii) If the rental dealer has deposited, or otherwise pledged, assigned, or  
27        securitized pursuant to Item (i) of this Subparagraph, bonds, stocks, securities, or  
28        other evidences of indebtedness, the state treasurer shall, on presentation of an  
29        execution issued on any final nonappealable, nonreviewable judgment against the

1        rental dealer that would otherwise be covered by a contingent automobile liability  
2        policy of insurance, cause the securities, or such part thereof as may be necessary to  
3        satisfy the judgment, to be sold at public auction giving the rental dealer three days'  
4        notice in writing of the time and place of the sale. From the proceeds of the sale the  
5        state treasurer shall, after paying the expenses thereof, satisfy the execution as  
6        provided when a cash deposit has been made.

7                (iv) Any sale by or payment upon an execution by the state treasurer in  
8        accordance with the provisions of this Section shall discharge him from all official  
9        and personal liability whatever to the rental dealer to the extent of such payment.

10               (v) The state treasurer shall deposit any cash received pursuant to the  
11        provisions of this Section in a savings bank or savings department of a trust company  
12        or of a national bank within the state.

13               (vi) The rental dealer shall be entitled to the interest accruing on the deposit  
14        and to the income payable on the securities deposited. The interest or income shall  
15        be paid to the rental dealer on at least an annual basis. The rental dealer may from  
16        time to time change the securities with the approval of the state treasurer.

17               (vii) The state treasurer, whenever for any reason the amount of the deposit  
18        falls below the amount required by this Section, shall require, at the option of the  
19        rental dealer, the deposit of additional cash or securities up to the amount required  
20        by this Section or a contingent automobile liability policy of insurance or contingent  
21        automobile liability bond as provided in this Section; provided, however, that the  
22        rental dealer shall not be required to make additional deposits of cash or securities,  
23        even arising out of separate occurrences or judgments, of more than an additional  
24        two hundred thousand dollars.

25               (viii) Money or securities deposited with the state treasurer pursuant to the  
26        provisions of this Section shall not be subject to attachment or execution except as  
27        provided in this Section.

28               (b)(i) The state treasurer shall give to the rental dealer a receipt on a form  
29        prescribed by the treasurer for the amount of cash or securities deposited, or pledged,

1       assigned, or securitized by him with the treasurer pursuant to this Section. The state  
2       treasurer shall retain the cash or securities deposited or securitized and shall not  
3       deliver or release the lien on the same or the balance thereof to the rental dealer on  
4       his order until the expiration of the time within which actions, the payment of  
5       judgments in which are secured by the deposit, may be brought against the rental  
6       dealer, nor in any case if a written notice is filed with the state treasurer stating that  
7       such an action has been brought against the rental dealer, until payment is made as  
8       provided in this Subsection or satisfactory evidence is presented to the treasurer that  
9       final disposition of the action has been made.

10               (ii) The state treasurer shall deliver to the rental dealer the cash or securities  
11       deposited or securitized, as well as a release of lien on cash or securities deposited  
12       or securitized, one year and one month after the rental dealer has ceased to do  
13       business in this state if there is no claim that would typically be covered by a  
14       contingent automobile liability policy of insurance pending against the rental dealer  
15       and the state treasurer has received no notice of an action brought against the rental  
16       dealer that would typically be covered by a contingent automobile liability policy of  
17       insurance.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Cortez

HB No. 400

**Abstract:** Allows a rental dealer to maintain a contingent automobile liability bond or cash deposit with the state treasurer in lieu of a contingent automobile liability policy.

Present law requires every rental dealer to maintain a contingent automobile liability policy of insurance with minimum limits of \$100,000 per occurrence, \$300,000 aggregate, and \$50,000 in property damage.

Present law further provides that it shall not be sufficient for any rental dealer to share in a policy of insurance, which could, under any circumstance, create a limit of less than that set forth in present law. Such policy shall be placed, if available, through an insurance company licensed by and admitted in the state of La.

Proposed law retains present law but adds the alternative that a rental dealer may maintain a contingent automobile liability bond or cash deposit with the state treasurer in lieu of a contingent automobile liability policy.

Proposed law provides that "contingent automobile liability bond" means a bond posted with the state treasurer in the amount of \$150,000 in lieu of maintaining the required contingent automobile liability policy of insurance.

Proposed law provides that the rental dealer may, in lieu of procuring a contingent automobile liability bond or policy, deposit with the state treasurer cash in the amount of \$150,000, or otherwise pledge, assign, or securitize, to the satisfaction of the state treasurer on such forms and documents as he shall require, which shall constitute a lien thereon in favor of the treasurer for the liabilities set forth in proposed law and authorize him to sell same pursuant to proposed law, bonds, stocks, securities, or other evidences of indebtedness satisfactory to the treasurer of a market value of not less than \$150,000.

Proposed law requires the state treasurer, upon presentation to the treasurer by an officer qualified to serve civil process of an execution issued on any final nonappealable, nonreviewable judgment against the rental dealer that would otherwise be covered by a contingent automobile liability policy of insurance, to pay, out of the cash deposited by the rental dealer, the amount of the execution, including costs and interest, up to but not in excess of \$100,000 per occurrence and \$50,000 in property damage.

Proposed law provides that, if the rental dealer has deposited, or otherwise pledged, assigned, or securitized bonds, stocks, securities, or other evidences of indebtedness, the state treasurer shall, on presentation of an execution issued on any final nonappealable, nonreviewable judgment against the rental dealer that would otherwise be covered by a contingent automobile liability policy of insurance, cause the securities, or such part thereof as may be necessary to satisfy the judgment, to be sold at public auction giving the rental dealer three days' notice in writing of the time and place of the sale. From the proceeds of the sale the state treasurer shall, after paying the expenses of the sale, satisfy the execution.

Proposed law provides that any sale by or payment upon an execution by the state treasurer in accordance with the provisions of proposed law shall discharge him from all official and personal liability whatever to the rental dealer to the extent of such payment.

Proposed law requires the state treasurer to deposit any cash received under the provisions of proposed law in a savings bank or savings department of a trust company or of a national bank within the state.

Proposed law provides that the rental dealer shall be entitled to the interest accruing on the deposit and to the income payable on the securities deposited. The interest or income shall be paid to the rental dealer on at least an annual basis.

Proposed law authorizes the rental dealer to change the securities with the approval of the state treasurer.

Proposed law provides that the state treasurer, whenever for any reason the amount of the deposit falls below the amount required by proposed law, shall require, at the option of the rental dealer, the deposit of additional cash or securities up to the amount required by proposed law or a contingent automobile liability policy of insurance or contingent automobile liability bond as provided in proposed law; provided, however, that the rental dealer shall not be required to make additional deposits of cash or securities, even arising out of separate occurrences or judgments, of more than an additional \$200,000.

Proposed law exempts money or securities deposited with the state treasurer under the provisions of proposed law from being subject to attachment or execution except as provided in proposed law.

Proposed law requires the state treasurer to give to the rental dealer a receipt on a form prescribed by the treasurer for the amount of cash or securities deposited, or pledged, assigned, or securitized by him with the treasurer.

Proposed law requires the state treasurer to retain the cash or securities deposited or securitized and to not deliver or release the lien on the same or the balance thereof to the rental dealer on his order until the expiration of the time within which actions, the payment of judgments in which are secured by the deposit, may be brought against the rental dealer, nor in any case if a written notice is filed with the state treasurer stating that such an action has been brought against the rental dealer, until payment is made or satisfactory evidence is presented to the treasurer that final disposition of the action has been made.

Proposed law requires the state treasurer to deliver to the rental dealer the cash or securities deposited or securitized, as well as a release of lien on cash or securities deposited or securitized, one year and one month after the rental dealer has ceased to do business in this state if there is no claim that would typically be covered by a contingent automobile liability policy of insurance pending against the rental dealer and the state treasurer has received no notice of an action brought against the rental dealer that would typically be covered by a contingent automobile liability policy of insurance.

(Amends R.S. 32:793(D))