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## DIGEST

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HB 430 Original

2017 Regular Session

Pylant

**Abstract:** Provides for the powers and duties of the La. Used Motor Vehicle Commission and imposes regulations on used motor vehicle sales financing and certain prohibited acts.

Present law provides certain exclusions from the provisions of the La. Motor Vehicle Sales Finance Act (R.S. 6:969.1, et seq.). Proposed law excludes used motor vehicle dealers licensed pursuant to present law (Chapter 4-C of Title 32 of the Revised Statutes of 1950) from the La. Motor Vehicle Sales Finance Act.

Present law provides that certain persons or entities are exempt from the provisions of the La. Motor Vehicle Sales Finance Act. Proposed law exempts used motor vehicle dealers licensed pursuant to present law (Chapter 4-C of Title 32 of the Revised Statutes of 1950).

Present law defines "used motor vehicle dealer". Proposed law removes a reference to "rents with option to purchase" leaving only a reference to "rents". Proposed law deletes a provision of present law providing for a presumption that any entity that sells five or more used motor vehicles which are not registered to and insured by the entity or by an entity affiliated with the entity receiving anything of value shall be presumed to be engaged in the business of selling used motor vehicles. Proposed law also deletes a provision of present law declaring that the term "used motor vehicle dealer" includes anyone not licensed under certain provisions of present law who sells used motor vehicles and who rents on a daily basis used motor vehicles.

Present law enumerates a list of certain persons who are not included in the term "used motor vehicle dealer". Proposed law adds motor vehicle dealers licensed by the La. Motor Vehicle Commission pursuant to present law.

Proposed law defines "rent" and "daily rental".

Present law establishes the general jurisdiction and authority of the commission. Proposed law deletes present law and enumerates a list of legislative findings regarding the purpose and necessity of the commission.

Present law enumerates a nonexclusive list of the powers of the commission. Proposed law adds to the list. Proposed law provides that the commission has the sole and exclusive authority to administer all claims made against a particular bond required by present law (R.S. 32:791(G)), including the denial or rejection of any claim. Proposed law further provides that the executive director of the commission is authorized to take any and all actions necessary to administer and

obtain payments related to the bond, including instituting any legal action to obtain payment related to the bond and preventing any unauthorized payment related to the bond. Proposed law also provides that if the commission institutes or participates in any legal action to obtain payment or to prevent payment related to the bond, the commission is entitled to an award of reasonable attorney fees and court costs to be paid by the entity responsible for the nonpayment or payment related to the bond.

Present law enumerates a list of activities or businesses prohibited to persons not licensed by the commission. Proposed law adds to that list both of the following persons:

- (1) A used motor vehicle dealer who rents or provides daily rentals of used motor vehicles.
- (2) A used motor vehicle dealer engaged in the business of making consumer loans for the purchase or acquisition of a used motor vehicle.

Present law provides that any motor vehicle dealer, not licensed under the provisions of present law, who rents on a daily basis motor vehicles not of the current year or immediate prior year models, that have been titled previously to an ultimate purchaser, shall be subject to the regulation of the commission. Proposed law deletes present law.

Proposed law maintains the remainder of present law.

Proposed law provides that it shall be unlawful for any used motor vehicle dealer to make a loan to a consumer or, for compensation or other monetary gain, to provide loan origination services to any consumer for the financing of a used motor vehicle, unless the used motor vehicle dealer has a current motor vehicle sales finance license issued by the commission.

Proposed law provides that any used motor vehicle dealer having more than one location where business is conducted shall be required to obtain and hold a current license for each location in which the used motor vehicle dealer provides assistance to any consumer applying for financing the sale of a used motor vehicle.

Proposed law provides that all used motor vehicle dealers shall comply with the provisions of the La. Motor Vehicle Sales Finance Act (R.S. 6:969.1, et seq.), and any violation of that Act shall subject the violator to any penalties or other remedies provided by law, including present law (R.S. 32:785, 786, and 788).

Proposed law requires that any application for a used motor vehicle sales finance license be on a form prescribed by the commission and shall include the following:

- (1) The signature of the applicant.
- (2) All information regarding the type of assistance to be offered to consumers in obtaining the financing.

(3) The name of any third party entity who may be involved and through which financing will be offered.

(4) Any other information that the commission deems necessary either to fully determine the qualifications and eligibility of an applicant or to safeguard the general interest and welfare of the public.

Proposed law requires that all applications for a license for motor vehicle sales finance be accompanied by the appropriate fee or fees in accordance with the schedule provided for in proposed law. In the event that any application is denied and the license is not granted, the application fee, less a processing fee of \$25, shall be returned to the applicant.

Proposed law requires every application for a license for motor vehicle sales finance be accompanied or supported by any evidence the commission shall prescribe for the purpose of documenting that the general manager, office manager, title clerk, or other responsible representative of a dealership has attended the educational seminar required by present law (R.S. 32:791).

Proposed law requires that the educational seminar be designed to develop and present programs that enhance the knowledge and competence of independent used motor vehicle dealers, their salespersons, and service personnel who assist consumers with applying for financing.

Proposed law requires the educational seminar to include instruction regarding the La. Motor Vehicle Sales Finance Act, dealer requirements imposed by the provisions of present law and proposed law, any rules promulgated to implement, enforce, or administer present law and proposed law, and any such other information that will promote good business practices.

Proposed law requires the commission to do all of the following:

- (1) Create a uniform document used to both certify completion of the seminar and detail all materials used in conducting the seminar.
- (2) Approve any fees charged for seminar materials and attendance.
- (3) Promulgate any rules necessary to implement the educational seminar program.

Proposed law requires that the schedule of license fees to be charged and received by the commission for a motor vehicle sales finance license be as follows:

- (1) A maximum of \$150 for the principal place of business of the used motor vehicle dealer.
- (2) \$100 for each place of business, in addition to the principal place of business of the used motor vehicle dealer, in which the used motor vehicle dealer provides assistance to any consumer applying for financing the sale of a used motor vehicle.

Present law imposes restrictions on a nonexclusive list of activities deemed to be prohibited forms

of advertising. Proposed law maintains present law but adds to the nonexclusive list. Proposed law prohibits advertising from including within the name of the business of the used motor vehicle dealership the word, "certified". Proposed law further prohibits advertising from including within the name of the business of the used motor vehicle dealership the word, "wholesale", or using the word, "wholesale," in any advertisement.

Proposed law clarifies that certain provisions of proposed law relative to used motor vehicle sales finance licensing shall not be effective until January 1, 2018.

Proposed law clarifies that certain provisions of proposed law relative to advertising prohibitions shall not be effective until January 1, 2020.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 6:969.3(B) and R.S. 32:781(13)(a), 782, 784, and 792(B)(17)(j); Adds R.S. 6:969.3(A)(7) and 969.36(A)(9) and R.S. 32:781(13)(b)(vii) and (18), 783(F)(10), 791.1, and 792(B)(17)(l))