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## DIGEST

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HB 445 Reengrossed

2015 Regular Session

Mack

**Abstract:** Provides relative to requirements for public tag agents and public tag agent applicants.

Present 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.

Proposed law requires persons, natural or juridical, except financial institutions, licensed new or used car dealers, state departments, offices or entities, and those included in the system established pursuant to present law to collect registration license taxes.

Present law 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 not less than \$10,000 nor more than \$100,000. Specifies that a public license tag agent with multiple locations only has to furnish a single \$10,000 surety bond in addition to any other bonds required by law.

Proposed law removes present 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.

Proposed 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.

Proposed law authorizes OMV to suspend, revoke, cancel, or impose other restrictions on any public tag agent contract conflicted pursuant to present 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 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 OMV.
- (12) Any other cause OMV may establish through the adoption of a rule.

Proposed 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.

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

Proposed 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 present law or proposed law relating to public tag agents, or any rules or regulations adopted pursuant to either.

Proposed law provides for 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.

Proposed law provides that upon a proper showing by OMV that such person has engaged or is engaged in any activity, conduct, or practice proscribed present or proposed 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.

Proposed 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.

Proposed law provides that a public tag agent with an existing contract with the Department of Public Safety and Corrections, OMV, as of August 1, 2015, shall not be required to obtain a surety bond in the amounts required by proposed 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 proposed law

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

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Clarify that financial institutions, licensed new or used car dealers, state departments, offices, or entities and entities included in the public tag agent system established by the commissioner can collect motor vehicle registration license taxes.
2. Modify a provision in proposed law to specify that the surety bond requirement of a public tag agent with one office in the state is \$100,000 and \$125,000 for a public tag agent with more than one office in the state.
3. Modify a penalty provision in proposed law to specify 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 OMV 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.

4. Add a provision authorizing OMV to suspend, revoke, cancel, or impose other restrictions on a public tag agent contract for certain causes.
5. Add a provision authorizing OMV to issue a cease and desist order to a person with a public tag agent contract if the public tag agent is engaged in certain prohibited activity. Also authorizes OMV to cause to issue a writ of injunction enjoining such activity if such person does not cease and desist such activity.
6. Remove a provision permitting OMV to designate any public tag agent as an official OMV field office if certain requirements are met.
7. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Provide that 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 proposed 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 proposed law.