

2015 Regular Session

HOUSE BILL NO. 445

BY REPRESENTATIVE MACK

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

MOTOR VEHICLES: Provides relative to entities authorized to provide services related to motor vehicles

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

9 Be it enacted by the Legislature of Louisiana:

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

12 §532.1. Public license tag agents; auto title companies; rules and regulations; surety
13 bonds; fees

14 A.(1) The commissioner may establish a system of public license tag agents
15 to collect the registration license taxes authorized by this Chapter. The system shall
16 consist of municipal and parish governing authorities or new motor vehicle dealers
17 or their agents licensed pursuant to the provisions of R.S. 32:1254 and authorized
18 auto title companies pursuant to the provisions of R.S. 32:735 et seq. No persons,
19 natural or juridical, except financial institutions, licensed new or used car dealers,

1 state departments, offices, or entities and those included in the system established
2 pursuant to this Section shall collect registration license taxes authorized by this
3 Chapter.

4 * * *

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

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

24 * * *

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

27 (b) The office of motor vehicles may deny a contract to any person, natural
28 or juridical, seeking to be a public tag agent if that person has been found to be in
29 violation of any rule or regulation promulgated by the office of motor vehicles

1 pertaining to the issuance of a motor vehicle title, registration, or driver's license
2 within the two-year period prior to the date of application.

3 * * *

4 §532.2. Public tag agents; causes for suspension, revocation, cancellation, or
5 restrictions; reinstatement

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

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

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

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

16 (4) Operating from an unapproved location.

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

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

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

26 (8) The forwarding to the office of motor vehicles by a public tag agent of
27 a document relevant to a registration or titling transaction that results in a material
28 injury to the public records, or a shortfall in the collection of taxes owed when the

1 public tag agent had knowledge of facts causing such injury or shortfall, and failed
2 to disclose same to the office of motor vehicles.

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

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

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

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

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

17 §532.3. Public tag agents; cease and desist order; injunctive relief

18 A. In addition to or in lieu of the administrative sanctions provided in R.S.
19 47:532.1, 532.2, or any rules or regulations adopted pursuant to either, and any
20 criminal sanctions otherwise provided by law, the office of motor vehicles is
21 empowered to issue an order to any person engaged in any activity, conduct, or
22 practice constituting a violation of R.S. 47:532.1, 532.2, or any rules or regulations
23 adopted pursuant to either, directing such person to cease and desist from such
24 activity, conduct, or practice. Such order shall be issued in the name of the state of
25 Louisiana under the official seal of the Department of Public Safety and Corrections,
26 office of motor vehicles.

27 B. If the person to whom the office of motor vehicles directs a cease and
28 desist order does not cease and desist the proscribed activity, conduct, or practice
29 within ten days from service of such cease and desist order by certified mail, the

1 office of motor vehicles may cause to issue a writ of injunction enjoining such
 2 person from engaging in any activity, conduct, or practice proscribed by R.S.
 3 47:532.1, 532.2, or any rules or regulations adopted pursuant to either. Such
 4 proceeding shall be brought in the district court having civil jurisdiction in any parish
 5 in which such person resides, or is domiciled or has his principal place of business.
 6 If the person whose contract is to be suspended, revoked, canceled, or otherwise
 7 restricted is a nonresident and is not domiciled within the state, such proceeding may
 8 be brought in the Nineteenth Judicial District Court for the parish of East Baton
 9 Rouge.

10 C. Upon a proper showing by the office of motor vehicles that such person
 11 has engaged or is engaged in any activity, conduct, or practice proscribed by R.S.
 12 47:532.1, 532.2, or any rules or regulations adopted pursuant to either, the court shall
 13 issue a temporary restraining order restraining the person from engaging in unlawful
 14 activity, conduct, or practices pending the hearing on a preliminary injunction, and
 15 in due course a permanent injunction shall issue after a hearing, commanding the
 16 cessation of the unlawful activity, conduct, or practice complained of, all without the
 17 necessity of the office of motor vehicles having to give bond as usually required in
 18 such cases.

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

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)]

HB 445 Engrossed

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 confected 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.

(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.