

## NOTICE OF INTENT

### Department of Public Safety and Corrections

#### Office of Motor Vehicles

### PUBLIC SAFETY

(LAC 55:III.§1501 et seq.)

Under the authority of R.S. 32:735 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., the Office of Motor Vehicles hereby proposes to amend sections in Chapter 15, regarding auto title companies. The new and amended sections address the qualifications of applicants, the application process including background checks, office locations, performance audits, grounds to suspend or revoke a contract, advertising, surety bonds, dishonored or denied payments, and administrative actions for failing to comply with all requirements in statute, this rule, and the contract. This rule shall become effective upon the promulgation of the rule in the Louisiana Register.

## Chapter 15. Services Provided by Persons and Business Entities

### Subchapter A. Auto Title Companies

#### §1501. Definitions

*Assistant Secretary*—assistant secretary of the Office of Motor Vehicles.

*Auto Title Company*—any person, firm, association, or corporation which is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles. The term *auto title company* also means any person, firm, association, or corporation which has been licensed in accordance with the provisions of R.S. 32:735 et seq. An auto title company shall not mean an insurance company transferring titles to wrecked vehicles, or a licensed motor vehicle dealer, lending institution, financial institution regulated by state or federal authorities, or a notary, attorney, or individual applicant unless he or it is doing business as an auto title company.

*Department*—Department of Public Safety and Corrections, Office of Motor Vehicles.

*Doing Business as an Auto Title Company*—any act by which a person, firm, association, or corporation holds himself or itself out to the public as being engaged in the business of handling transactions involving the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles, but does not include an attorney, notary, financial institution, lending institution, or insurance company, unless these entities or persons issue temporary registrations.

*Person*—includes person, corporation, partnership, limited liability company, firm, association, or other legal entity formed to conduct business.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:735(B).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998).

#### §1503. Requirement of Contract

A. Any person who is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles shall contract with the Department of Public Safety and Corrections, Office of Motor Vehicles prior to conducting any business as an auto title company.

B. A person shall not be required to obtain a contract as an auto title company if the person is an insurance company transferring titles to wrecked vehicles, a licensed motor vehicle dealer, a lending institution, or a financial institution regulated by state or federal authorities. Additionally, a notary, attorney, or individual shall not be required to obtain a contract as an auto title company unless the person is doing business as an auto title company.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:735(B).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998); amended LR 49:XXXX (July 2023).

#### §1505. Application Requirements

A. The application for an auto title company shall be on a form approved by the department, and shall require the applicant to provide the following information:

1. the full legal name of the applicant, including any trade names or aliases;
2. the complete physical and mailing addresses for the applicant's principal place of business, as well as for any location from which the applicant intends to conduct business as an auto title company;
3. the telephone number, including area code, for each place of business or location listed on the application;
4. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of a contact person;
5. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of all officers, directors, and managers of the applicant;
6. a signed and dated statement by each natural person listed in the application, stating that they are submitting themselves for review by the department to determine if they are persons of good moral character, and that they authorize the department to check their criminal history; and
7. the auto title company owner(s) must be citizen(s) of the United States or be lawfully present in the United States in a status that allows the person to own and operate a business.

8. the auto title company owner(s) must have earned at least a high school diploma, GED or its equivalent.

9. the auto title company must have a business location within the state of Louisiana where the auto title company office will operate.

10. Proof of registration with the secretary of state to do business in the state of Louisiana

11. possess any required business license;

12. such other information or documentation that the department may require in order to determine the eligibility of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998); amended LR 49:XXXX (July 2023).

#### **§1507. Application Fee**

A. The applicant shall pay a biennial annual contract application fee of \$400 for one business location. An annual fee of \$100 will be required for each additional business location. The contract fee shall be paid by cash, money order, or check, made payable to the Department of Public Safety and Corrections. If payment is made with a check, the check must be written on an account in the same name as the business name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998); amended LR 49:XXXX (July 2023).

#### **§1509. Renewal Application**

A. Every contract issued shall expire on May 31<sup>st</sup> following the year in which such license was issued. The contract shall be renewed bi-annually at least 60 days in advance of the expiration date of the license by submitting to the Office of Motor Vehicles an application for renewal, together with the license renewal fee and the surety bond continuation certificate for the renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998); amended LR 49:XXXX (July 2023).

#### **§1511. Change of Location or Information**

A. In the event a licensed auto title company changes its business location, or any information provided on the original application or subsequent renewal application changes, the company shall submit an updated application (DPSMV 1968), an original bond change rider, and the current original auto title company license.

B. Application for change of location must be approved prior to the Auto Title Company conducting business in the new location.

C. A \$8 handling fee shall be assessed when a Public Tag Agent relocates and a new certificate is issued or if a duplicate certificate is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 32:412.1(C).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998); amended LR 49:XXXX (July 2023).

#### **§1513. Change of Ownership**

A. As part of its application for a license, an auto title company shall agree, in writing, to the updating requirements of §1513.

B. In the event there is a change in the ownership of an applicant or a licensed auto title company, the applicant or licensee, as the case may be, shall submit an updated application (DPSMV 1968), an original bond change rider, and the current original auto title company license, if issued. If the surety will not issue a bond rider, then a new bond shall be submitted with the application. If a new bond is required, the old bond shall not be canceled until the department approves the ownership change and the new bond. In the event that the old bond is canceled, the surety on the old bond shall remain liable for any claim against the old bond for any transaction handled by the licensee during the effective dates of the old bond. The bonding requirements of §1513 may be altered by the department if the department is satisfied that the state and its citizens are adequately protected from any losses resulting from the acts or omissions attributable to the licensee during the effective dates of the bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998).

#### **§1515. Inspections and Audits**

A. As part of its application for a contract, an auto title company shall agree, in writing, to the audit and inspection requirements of §1515.

B. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect and audit any and all records or reports of the auto title company. The records and reports shall be made available immediately on request, unless the records or reports are currently in use, but no later than by the close of business following the day the request for the records was made. In lieu of submitting the original records and reports, the auto title company may submit copies to the person requesting the records and reports, at the auto title company's cost, if the person requesting the records and reports is satisfied with the accuracy of the copies.

C. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect the premises of any office of the licensee where auto title business is conducted or where the records and reports of the auto title company are kept.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998); amended LR 49:XXXX (July 2023).

**§1517. Contract Suspension, Revocation, Cancellation, Nonissuance, or Restrictions**

A. The following actions by a contractor or applicant or any of the contractor's or applicant's employees, managers, agents, representatives, officers, directors or owners may subject the contractor or applicant to suspension, revocation, or cancellation of the contract by the department or the imposition of restrictions by the department. Additionally, the department may deny an application and refuse to issue a contract for any of the following actions by a contractor or applicant or any of the contractor's or applicant's employees, managers, agents, representatives, officers, directors or owners:

1. failure to remit taxes and fees collected from applicants for title transfers;
2. repeated late filings;
3. operating as an auto title company without a license for each location, with an expired license, or without a valid surety bond on file with the Office of Motor Vehicles;
  - 4.a. the issuance of more than one temporary registration (T-marker) to a title applicant; or
  - b. the issuing of a T-marker without first collecting all taxes and fees and requiring the title applicant to show proof of compliance with the compulsory insurance law;
5. operating from an unlicensed location;
6. changing the ownership of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;
7. changing the officers or directors of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;
8. being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a shortfall in the collection of taxes owed;
9. the forwarding to the Office of Motor Vehicles by an auto title company 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 auto title company had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles;
10. conviction of, or an entry plea of guilty or nolo contendere to any felony; or conviction of, or an entry plea of guilty or nolo contendere to any criminal charge, an element of which is fraud;
11. fraud, deceit, or perjury in obtaining any license issued under this Chapter;
12. failure to maintain, at all times during the existence of the license, all qualifications required for issuance or renewal of a license;
13. any material misstatement of fact, or omission of fact, in any application for the issuance or renewal of a license for an auto title company;

14. the repeated submission of checks which have been dishonored by the bank on which the check was drawn.

15. Failure to provide requested documents in a manner set forth in §1515

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998), amended LR 25:2414 (December 1999); amended LR 49:XXXX (July 2023).

**§1519. Declaratory Orders and Rulings**

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule to the regulation of auto title companies shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed, or written legibly and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted, including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to the person submitting the petition, as well as the persons receiving notice of the petition, at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §1519.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998).

**§1521. Insufficient Funds Checks**

A. Any auto title company which has submitted more than one payment, whether in the form of an electronic ACH, debit, paper draft, or check to the department which have been returned because of insufficient funds in the account shall be required to use a cashier's check, certified check, or money order to pay taxes and fees when submitting any transaction to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998); amended LR 49:XXXX (July 2023).

### §1523. Administrative Hearings

A. Any request for an administrative hearing must be submitted in writing to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, at Box 64886, Baton Rouge, LA 70896-4886, or hand delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, LA. Any request for an administrative hearing must be received by the department within 30 days of the date the notice of suspension, revocation, cancellation, denial, or other action, was mailed, or hand delivered, as the case may be.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:375(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998).

### §1525. Third Party Checks Prohibited

A. The department will not accept a check by a third party on behalf of an applicant for title and/or registration unless the check is submitted by an attorney, notary, motor vehicle dealer, insurance company transferring title to a wrecked vehicle, lending institution, financial institution regulated by state or federal authorities, or a duly licensed auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:375(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998).

### §1527. Name, Trade Name, Advertisements, and Other Signage of Auto Title Companies

A. Since auto title companies may charge convenience fees and may offer services not available at an Office of Motor Vehicles field office, no auto title companies shall display any sign which may mislead the public into believing that the auto title company's office or business establishment is a field office of the Office of Motor Vehicles.

B. No auto title company shall display any sign, logo, business name, or trade name, or cause to be advertised any sign, logo, business name, or trade name which includes the words "office of motor vehicles," "motor vehicle office," or "motor vehicles office," or any similar phrases, unless the sign, logo, business name, trade name, or advertisement clearly and prominently includes a statement indicating the business's status as an auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999); amended LR 49:XXXX (July 2023).

#### Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### Public Comments

All interested persons may submit written comments through May 25, 2023, to Stephen A. Quidd, Executive Management Officer, Office of Motor Vehicles, Louisiana Department of Public Safety and Corrections, at P. O. Box 64886, Baton Rouge, LA 70896, or faxed to (225)925-6303.

#### Public Hearing

A public hearing on the proposed Rule will be held on May 26, 2023, at the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles Headquarters, 7979 Independence Blvd., Suite 301, Baton Rouge, La. 70806, (225) 925-6281, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the above number at least seven working days in advance of the hearing. For assistance, call (225) 925-6281 (voice and TDD). Any interested person should call before coming to the public hearing as the hearing will be cancelled if the requisite number of comments, as provided in R.S.49:961(B), are not received.

Karen St. Germain

Commissioner

SUMMARY

(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment will not result in any costs or savings to state or local governmental units. The proposed amendment updates the rule to reflect current practices.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment will have no impact on state or local governmental revenues. The

proposed amendment update the rule to reflect current practices and does not establish new fees or impact collections of any fees currently authorized by law.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed amendment does not have any effect on the estimated costs and/or economic benefit of affected persons or non-governmental groups. The proposed amendment reflects current practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated or foreseen impact on competition and employment.