



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Consumer Protection Advisory Committee Meeting

1:30 p.m.
Friday, August 21, 2020

AGENDA
CONSUMER PROTECTION ADVISORY COMMITTEE MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
OPEN MEETING VIA
TELEPHONE CONFERENCE CALL*
PURSUANT TO GOVERNOR'S MARCH 16, 2020, TEMPORARY SUSPENSION OF
CERTAIN OPEN MEETING PROVISIONS**
FRIDAY, AUGUST 21, 2020
1:30 P.M.

THIS MEETING WILL BE HELD REMOTELY VIA TELEPHONE CONFERENCE CALL*

Teleconference Instructions:

Phone number for accessing the meeting via phone:

United States Toll Free: 1-(844)-740-1264

Meeting number/Access code: 133 841 0556

Event Password: 08212020

*The public can listen to the meeting via the toll-free number listed above. If you have any technical questions about accessing the meeting, please send an email to Board.Tech.Help@txdmv.gov.

Link to August 21, 2020, TxDMV Consumer Protection Advisory Committee Meeting Documents: <https://www.txdmv.gov/about-us/txdmv-board-meetings>

**Action by Governor Greg Abbott pursuant to Texas Government Code Section 418.016

<https://gov.texas.gov/news/post/governor-abbott-allows-virtual-and-telephonic-open-meetings-to-maintain-government-transparency>

All agenda items are subject to possible discussion, questions, consideration, and action by the Consumer Protection Advisory Committee of the Texas Department of Motor Vehicles (Advisory Committee). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of consideration by the Advisory Committee. A quorum of the Board of the Texas Department of Motor Vehicles (board) may be present at this meeting for information-gathering purposes and discussion. However, board members will not vote on any Advisory Committee agenda items, nor will any board action be taken.

1. CALL TO ORDER

Roll Call and Establishment of Quorum

2. DISCUSSION, BRIEFING, AND ACTION ITEMS

- A. Title and Consumer Financial Issues When a Dealer Goes Out of Business (Legislative Recommendation) - TxDMV Vehicle Titles and Registration Division and Presiding Officer
- B. Future Meeting Schedule – Presiding Officer

3. PUBLIC COMMENT

4. ADJOURNMENT

The Advisory Committee will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Advisory Committee. No action will be taken on matters that are not otherwise part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Advisory Committee members may respond in accordance with Government Code Section 551.042 and consider the feasibility of placing the matter on the agenda for a future meeting, or referring it to the board.

If you want to comment on any agenda item (including an open comment under Item #3), you must send an email to GCO_General@txdmv.gov or call (512) 465-5665 to register with one of the following prior to the agenda item being taken up by the Advisory Committee:

- 1. a completed registration form (available on the TxDMV webpage for the Board and other public meetings: <https://www.txdmv.gov/about-us/txdmv-board-meetings>); or
- 2. the following information:
 - a. the agenda item you wish to comment on;
 - b. your name and address, including your city, state, and zip code; and
 - c. who you are representing.

You must wait for the presiding officer to call on you before you verbally make your comment. Each speaker will be limited to three minutes, and time allotted to one speaker may not be reassigned to another speaker.

Agenda items may be presented by the named presenters or other Advisory Committee members.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact David Richards by telephone at (512) 465-1423.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Tracey Beaver, General Counsel, (512) 465-5665.



Texas Department of Motor Vehicles

Memorandum

Date: August 14, 2020
To: The Consumer Protection Advisory Committee (CPAC)
From: LaDonna Castañuela, Attorney, Motor Vehicle Division
Subject: Information regarding the GDN Dealer Bond Requirement

During the CPAC's June 18, 2020, meeting, the CPAC requested the following information from the Motor Vehicle Division (MVD) staff:

1. **Gather and provide information regarding**
 - A. exhaustion of bonds;
 - B. the types of dealers against whom consumers are bringing or making bond claims;
 - C. whether, to the extent it can be ascertained, consumers are being made whole through claims against these bonds; and
 - D. why the legislature declined to make any change to the bond amount in the last session.
2. **Research alternatives to the current statutory language requiring a judgement to access the surety bond.**

This document provides a summary of the data collected in response to the CPAC's requests.

Also included in this document are the following attachments that may include information helpful for the CPAC's discussions:

- The full text of Transportation Code §503.033, Security Requirement;
- A table of data, collected by MVD in January 2019, showing the various bond amount requirements for all 50 states.

General Information About the Dealer Bond Requirement

Transportation Code §503.033 requires an applicant for a new or renewal General Distinguishing Number (GDN) to provide to the department proof that the applicant has purchased a \$25,000 surety bond.

Subsection (d) of Section 503.033 requires a person who wishes to recover against a dealer's surety bond to first obtain a judgment assessing damages and reasonable attorney's fees.

Subsection (e) of Section 503.033 limits the liability imposed on a dealer's bond to the amount

- of the valid bank drafts, including checks, drawn by the dealer applicant to buy motor vehicles, or
- paid to the dealer for a motor vehicle for which the dealer did not deliver good title, and
- attorney's fees incurred in the recovery of the judgment.

Subsection (g) of Section 503.033 specifically exempts franchised motor vehicle dealers from the surety bond requirement.

REQUEST 1: GATHER AND PROVIDE INFORMATION**A. Exhaustion of Bonds:**

Between January 1, 2020, and June 30, 2020, MVD received 1,060 letters from surety bond companies regarding dealer bonds.

1,048 (99%) of the letters were notifications that a dealer's bond is or will be cancelled. The majority of those bond cancellation letters referenced an effective date that corresponds to the expiration date of the dealer's GDN.

12 (1%) of the letters received during the first six months of 2020 were notices of claim payments made on dealer bonds. All bond claim letters include the payment amount.

When a bond claim letter is received, MVD staff checks the expiration date of the associated GDN. If the GDN has not expired, been closed by the dealer, or been revoked, staff will contact the dealer. If the dealer does not respond to staff's requests that the dealer provide proof of \$25,000 of bond coverage, MVD will refer the dealer to the Enforcement Division for a GDN revocation proceeding.

The following table lists the 12 bond claim payment letters, including judgment and claim payment amounts. There are only 11 rows in the table because Row 10 includes 2 separate letters regarding claims paid on the same dealer bond.

7 of the 11 dealer bonds in the table were exhausted and cancelled after the claims listed below were paid.

Bond Claim Payment Notices Received by the Motor Vehicle Division 1/1/20-6/30/20

Date letter received	GDN	Amount of judgment, if specified	Date Paid Amount Paid	GDN Status and Notes
1. 1/21/20	P115272	Judgment 1: \$10,958 Judgment 2: \$17,878.97	Claim 1: \$9500 Claim 2: \$15,500	Bond Case referred to Enforcement Division.
2. 1/31/20	P110553	\$65,465	\$25,000	GDN revoked 9/2/19, 19-0003221.ENF. The order also assessed \$48K civil penalty.
3. 1/28/20	P136306	\$16,068	\$16,068	Bond Case referred to Enforcement Division.
4. 2/7/20	P147046	\$27,940.00 and attorney fees \$2,218.50	\$25,000	GDN closed for nonrenewal on 6/1/20.
5. 2/14/20	P151252	\$38,256 plus \$3,777 for attorney's fees.	\$25,000	GDN revoked 6/8/20 by order, 20-0009910.ENF.
6. 3/10/20	P152261	\$219,000	\$25,000	GDN revoked 3/18/20, 20-0006048.

7. 4/15/20	P132594	\$7,090	\$7,090	GDN closed per dealer request 1/3/20.
8. 4/14/20	P134125	\$12,424.09	\$12,424.09	GDN revoked 3/9/2020, 19-0003539.ENF.
9. 4/27/20	P149169	\$11,200	\$11,200	GDN revoked 4/17/19, 19-0005128.ENF.
10. 6/1/20 and 7/7/20	P122913	1 st judgment: \$2,675 2 nd judgement: \$88,517 plus \$2,023.50 attys fees.	1 st claim: \$2,675 2 nd claim: \$22,325	GDN revoked 5/2/20, 19-0003109.ENF. Order also assessed a \$15,000 civil penalty.
11. 5/13/20	P127792	Claim 1: \$12,659.53 Claim 2: \$7500 + \$5495 attorney's fees	\$12,659.53 \$12,340.47	GDN revoked 2/22/18, 17-0175999.ENF. Order also assessed a \$269,000 civil penalty.

B. The Types of Dealers Against Whom Consumers are Bringing or Making Bond Claims

All dealers whose GDNs are listed in the table above sell used cars. The dealers hold (or held) GDNs for Independent Motor Vehicle dealers.

It may be helpful to know that, per information gathered on August 5, 2020, there were 16,603 active GDNs for independent motor vehicle dealers. The 11 dealers whose bond companies paid claims in early 2020 represent .066% of licensed independent motor vehicle dealers.

C. Whether, to the Extent it Can be Ascertained, Consumers are Being Made Whole

The information in the Bond Claim Payment table above includes information about 13 claims that were paid during the first six months of 2020. Each payment was made after the claimant obtained a judgment.

Five of the 13 claim payments were made for the entire judgment amount. The remaining 8 claim payments were made for amounts less than the associated judgment because the judgment exceeded the \$25,000 bond or, in a case where a previous claim payment was made on the same bond, the judgment exceeded the remainder on the bond.

D. Why the Legislature Declined to Make any Change to the Bond Amount in the Last Session

There is no record of deliberations that led to the bill amendment that resulted in no change to the \$25,000 bond requirement.

The amendment proposing a bond requirement increase to \$50,000 was added to HB 3842 as a floor amendment in the senate on May 22, 2019.

On May 24, 2019, conference committee members were appointed. Later the same day, when the conference committee filed its report, the increase to \$50,000 had been removed from the bill.

REQUEST 2: RESEARCH ALTERNATIVES TO THE CURRENT STATUTORY LANGUAGE REQUIRING A JUDGEMENT TO ACCESS THE SURETY BOND.

As mentioned above, Transportation Code §503.033 (d) requires a person who wishes to recover against a surety bond to first obtain a judgment.

Alternatives to the pre-recovery judgment requirement include:

1. Require a pre-recovery claim administrative order. For example, in Connecticut, recovery against a dealer's bond requires an order of the Commissioner of Motor Vehicles, after a hearing; or
2. No pre-recovery claim requirement. For example, Arizona allows a person to file a claim directly with the bond company without first obtaining a judgment or an administrative order.

During my research of alternatives, I communicated with representatives from surety bond companies and from the Surety and Fidelity Association of America. The industry representatives believe that the claim payment process is faster for those states that require a pre-claim judgment or administrative order because the court or administrative agency has already determined that the statutory requirements for recovery have been met.

Texas Transportation Code

Sec. 503.033. SECURITY REQUIREMENT. (a) The department may not issue or renew a motor vehicle dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number unless the applicant provides to the department:

- (1) satisfactory proof that the applicant has purchased a properly executed surety bond in the amount of \$25,000 with a good and sufficient surety approved by the department; or
 - (2) other security under Subsection (c).
- (b) The surety bond must be:
- (1) in a form approved by the attorney general;
 - (2) conditioned on:
 - (A) the payment by the applicant of all valid bank drafts, including checks, drawn by the applicant to buy motor vehicles; and
 - (B) the transfer by the applicant of good title to each motor vehicle the applicant offers for sale.
- (c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec. 44(a)(3), eff. September 1, 2011.
- (d) A person may recover against a surety bond or other security if the person obtains against a person issued a motor vehicle dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number a judgment assessing damages and reasonable attorney's fees based on an act or omission on which the bond is conditioned that occurred during the term for which the general distinguishing number was valid.
- (e) The liability imposed on a surety is limited to:
- (1) the amount:
 - (A) of the valid bank drafts, including checks, drawn by the applicant to buy motor vehicles; or
 - (B) paid to the applicant for a motor vehicle for which the applicant did not deliver good title; and
 - (2) attorney's fees that are incurred in the recovery of the judgment and that are reasonable in relation to the work performed.
- (f) The liability of a surety may not exceed the face value of the surety bond. A surety is not liable for successive claims in excess of the bond amount regardless of the number of claims made against the bond or the number of years the bond remains in force.
- (g) This section does not apply to a person licensed as a franchised motor vehicle dealer by the department.

Motor Vehicle Dealer Bond Requirement: State-by-State
(collected January 2019)

State	GDN Bond Amount	Notes
Alabama	\$25,000	
Alaska	\$50,000	
Arizona	\$100,000	
Arkansas	\$25,000	
California	\$50,000	
Colorado	\$50,000	
Connecticut	\$50,000	
Delaware	n/a	
Florida	\$25,000	
Georgia	\$35,000	
Hawaii	\$10,000 - \$200,000	GDN over 60 units per month - \$100,000, less than 60 = \$25,000
Idaho	\$10,000 - \$40,000	\$20,000 for all retail dealers, \$40,000 for all wholesale-only dealers, and \$10,000 for motorcycle, all-terrain vehicle, utility type vehicle, truck campers, and snow machine dealers.
Illinois	\$50,000	
Indiana	\$25,000	
Iowa	\$75,000	
Kansas	\$30,000	
Kentucky	\$100,000	may or may not be required depending on proof of financial status
Louisiana	\$50,000	
Maine	\$5000 - \$25,000	depends on sales
Maryland	\$15,000 - \$300,000	depends on license type and sales. GDN range is 15K - 150,000
Massachusetts	\$25,000	
Michigan	\$10,000	
Minnesota	\$50,000	
Mississippi	\$25,000	
Missouri	\$50,000	
Montana	\$50,000	
Nebraska	\$50,000	
Nevada	\$100,000	
New Hampshire	\$25,000	
New Jersey	\$10,000	
New Mexico	\$50,000	
New York	\$20,000-\$100,000	depends on sales
North Carolina	\$50,000	
North Dakota	\$25,000	
Ohio	\$25,000	
Oklahoma	\$25,000	

Oregon	\$50,000	\$10,000 bond for Motorcycles, mopeds and ATVs
Pennsylvania	\$20,000	
Rhode Island	\$50,000	
South Carolina	\$30,000	\$15,000 for Motorcycles
South Dakota	\$25,000	
Tennessee	\$50,000	
Texas	\$25,000	
Utah	\$75,000	
Vermont	\$20,000-\$35,000	depends on sales
Virginia	\$50,000	
Washington	\$30,000	
West Virginia	\$25,000	
Wisconsin	\$50,000	
Wyoming	\$25,000	



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

February 27, 2020

Registration and Title Bulletin # 005-20 Policy and Procedure

TO: All County Tax Assessor-Collectors

SUBJECT: **Titling Procedures and Waiving of Fees for Out of Business Dealer Applications**

PURPOSE

To provide guidance on the titling procedures and waiving of fees when an out of business dealer fails to apply for title on the purchaser's behalf.

DETAILS

House Bill (HB) 3842, enacted by the 86th Legislature, authorizes the department to establish titling requirements and waive fees paid to a dealer by the purchaser, when an out of business dealer failed to apply for title on the purchaser's behalf as required by Transportation Code, §501.0234. HB 3842 also authorizes the department to waive the fee for one 30-Day Permit for the purchaser.

A customer who purchases a vehicle from a dealer that has gone out of business may apply for title and registration at their county tax assessor-collector's office and apply for one 30-Day Permit at no fee, if needed.

Prior to applying for title, the purchaser must obtain a letter from a Texas Department of Motor Vehicles Regional Service Center on department letterhead stating the dealer has gone out of business and what fees may be waived. Fees waived are determined by evidence provided by the purchaser showing any fees that were paid to the dealer. The department will waive the following fees:

- title application fee;
- delinquent transfer penalty;
- all registration and optional county fees under Transportation Code, Chapter 502;
- all inspection fees under Transportation Code, Chapter 548; and
- buyer tag fee.

The department will not waive motor vehicle sales and use tax paid by the purchaser to the out of business dealer; however, the county tax assessor-collector may waive the fees per Tax Code, §152.041, when proof of payment is submitted to the county with the title application.

In addition to the letter, the purchaser must provide a sales contract, retail installment agreement, or buyer's order in lieu of the vehicle's evidence of ownership. If the vehicle is subject to odometer disclosure and a properly completed odometer disclosure statement is not included with the title application, the odometer brand must be recorded as Not Actual Mileage.

2

February 27, 2020

Additionally, a release of lien is not required if the only lienholder on the vehicle record is the dealer that went out of business. Otherwise, a release of lien will be required if a lien is recorded on the vehicle record.

Programming changes to facilitate waiving fees in the Registration and Title System (RTS) were implemented with RTS Release 9.5. A “Dealer Closure” checkbox is available on the TTL008 screen in the title event and during a 30-Day Permit transaction on the MRG005 screen.

Checking the “Dealer Closure” checkbox will waive all fees associated with a title application or issuance of a 30-Day Permit. Any fees associated with the title application that were not paid to the dealer must be collected through the RTS Additional Collections Event. Additional details and processing instructions were provided in the RTS 9.5 Release Notes.

All title and 30-Day Permit related transactions will continue to display on existing RTS reports. RTS will retain the amount of fees that are waived with the title application and/or the 30-Day Permit issuance. Two new Cognos reports are available to reflect transactions associated with a dealer that has gone out of business. One report reflects the title transactions and the amount of fees waived. The other report reflects the 30-Day Permits and the amount of fees waived.

COUNTY ACTION

If a customer requests issuance of a 30-Day Permit for no fee or is filing a title application for a vehicle they purchased from a dealer that has gone out of business, ensure the customer has a letter issued by the department stating the dealership has gone out of business and the fees that may be waived. In addition, ensure the customer provides a sales contract, retail installment agreement, or buyer’s order in lieu of the vehicle’s evidence of ownership with the title application.

Record the odometer brand as Not Actual Mileage if an odometer disclosure is not provided for a vehicle subject to odometer disclosure, and do not require a release of lien if the lienholder is the dealer that has gone out of business.

Ensure any fees not waived in the letter issued by the department that are associated with the title application are collected through the RTS Additional Collections Event.

CONTACT

If you have any questions, please contact your local Texas Department of Motor Vehicles Regional Service Center.

Sincerely,



Jeremiah Kuntz, Director
Vehicle Titles and Registration Division

JK:TT:JE

(Revised 4/14)

MOTOR VEHICLE DEALER'S SURETY BOND

Bond # 63684185

KNOW ALL BY THESE PRESENTS, THAT

Name MISA AUTO SALES LLCAddress(es) 6456 ST HWY RDCity, State, and Zip ROYSE CITY, TX 75189

As principal, whose place of business and any supplemental location(s) operated under the same general distinguishing number is/are located at the address(es) set forth above, and

Name WESTERN SURETY COMPANYAddress(es) P.O. Box 5077City, State, and Zip Sioux Falls, SD 57117-5077

as Surety, duly authorized and qualified to do business as a surety company in this State, are held and firmly bound to such persons who shall conduct business with said Principal in its capacity as a motor vehicle dealer in the penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000), for the payment of which sum, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors, and assigns.

WHEREAS, the above-named Principal is applying for a license as a motor vehicle dealer,

AND WHEREAS, said Principal is required by law (Tex. Transp. Code §503.033) to submit a properly executed surety bond, conditioned as set forth below, with said application for license,

AND WHEREAS, the bond shall run concurrently with the period of the license issued to the Principal.

THE CONDITION OF THIS OBLIGATION is such that, if during the effective period of this obligation, the Principal shall pay all valid bank drafts, including checks, drawn by the Principal for the purchase of motor vehicles and transfer good title to each motor vehicle that the Principal purports to sell, then this obligation shall be void; otherwise to remain in full force and effect.

IT IS FURTHER UNDERSTOOD AND AGREED that the above obligation shall extend, without notification to the Surety, to any change of officers of the Principal if the Principal is a corporation, to any additional locations or changes of address of the Principal or to any substitution of business name of the Principal wherein ownership is not changed.

IT IS FURTHER UNDERSTOOD AND AGREED that this bond shall be opened to successive claims up to the face value of the bond. The Surety shall not be liable for successive claims in excess of the bond amount, regardless of the number of claims made against the bond. Recovery against the bond may be made by a person who obtains a judgment against a dealer assessing damages and attorney's fees for an act or omission on which the bond is conditioned if the act or omission occurred during the term for which the general distinguishing number will be valid. Payment of any judgment by the Surety shall be immediately reported to the Texas Department of Motor Vehicles, Motor Vehicle Division, P.O. Box 28487, Austin, Texas 78755.

IN WITNESS WHEREOF said Principal and Surety have executed this bond to be effective on the 1st day of July, 2018 and to expire on the 30th day of June, 2020.

DATED this 11 day of JUNE 2018.

MISA AUTO SALES LLC

By: [Signature]
(OFFICER'S OR PROPRIETOR'S SIGNATURE)

DATED this 11th day of June, 2018

WESTERN SURETY COMPANY

By: [Signature]
(SURETY)
Paul T. Bruflatt, Vice President

In accordance with Tex. Transp. Code §503.033, this form is prescribed but not furnished by the Texas Department of Motor Vehicles as approved by the Attorney General of Texas on July 18, 1985.

Figure: 28 TAC §1.601(a)(3)

IMPORTANT NOTICE

1 To obtain information or make a complaint:

2 You may contact Western Surety Company, Surety Bonding Company of America or Universal Surety of America at 605-336-0850.

3 You may call Western Surety Company's, Surety Bonding Company of America's or Universal Surety of America's toll-free telephone number for information or to make a complaint at:

1-800-331-6053

4 You may also write to Western Surety Company, Surety Bonding Company of America or Universal Surety of America at:

P.O. Box 5077
Sioux Falls, SD 57117-5077

5 You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

6 You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

7 PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact Western Surety Company, Surety Bonding Company of America or Universal Surety of America first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

8 ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Puede comunicarse con Western Surety Company, Surety Bonding Company of America o Universal Surety of America al 605-336-0850.

Usted puede llamar al numero de telefono gratis de Western Surety Company's, Surety Bonding Company of America's o Universal Surety of America's para informacion o para someter una queja al:

1-800-331-6053

Usted tambien puede escribir a Western Surety Company, Surety Bonding Company of America o Universal Surety of America:

P.O. Box 5077
Sioux Falls, SD 57117-5077

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concemiente a su prima o a un reclamo, debe comunicarse con el Western Surety Company, Surety Bonding Company of America o Universal Surety of America primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es

solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

SAMPLE

(Revised 4/14)

MOTOR VEHICLE DEALER'S SURETY BOND

Bond # _____

KNOW ALL BY THESE PRESENTS, THAT

Name _____

Address(es) _____

City, State, and Zip _____

As principal, whose place of business and any supplemental location(s) operated under the same general distinguishing number is/are located at the address(es) set forth above, and

Name _____

Address(es) _____

City, State, and Zip _____

as Surety, duly authorized and qualified to do business as a surety company in this State, are held and firmly bound to such persons who shall conduct business with said Principal in its capacity as a motor vehicle dealer in the penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000), for the payment of which sum, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors, and assigns.

WHEREAS, the above-named Principal is applying for a license as a motor vehicle dealer,

AND WHEREAS, said Principal is required by law (Tex. Transp. Code §503.033) to submit a properly executed surety bond, conditioned as set forth below, with said application for license,

AND WHEREAS, the bond shall run concurrently with the period of the license issued to the Principal.

THE CONDITION OF THIS OBLIGATION is such that, if during the effective period of this obligation, the Principal shall pay all valid bank drafts, including checks, drawn by the Principal for the purchase of motor vehicles and transfer good title to each motor vehicle that the Principal purports to sell, then this obligation shall be void; otherwise to remain in full force and effect.

IT IS FURTHER UNDERSTOOD AND AGREED that the above obligation shall extend, without notification to the Surety, to any change of officers of the Principal if the Principal is a corporation, to any additional locations or changes of address of the Principal or to any substitution of business name of the Principal wherein ownership is not changed.

IT IS FURTHER UNDERSTOOD AND AGREED that this bond shall be opened to successive claims up to the face value of the bond. The Surety shall not be liable for successive claims in excess of the bond amount, regardless of the number of claims made against the bond. Recovery against the bond may be made by a person who obtains a judgment against a dealer assessing damages and attorney's fees for an act or omission on which the bond is conditioned if the act or omission occurred during the term for which the general distinguishing number will be valid. Payment of any judgment by the Surety shall be immediately reported to the Texas Department of Motor Vehicles, Motor Vehicle Division, P.O. Box 26487, Austin, Texas 78755.

IN WITNESS WHEREOF said Principal and Surety have executed this bond to be effective on the _____ day of _____, _____ and to expire on the _____ day of _____, _____.

DATED this _____ day of _____

(PRINCIPAL)

By: _____
(OFFICER'S OR PROPRIETOR'S SIGNATURE)

DATED this _____ day of _____

(SURETY)

By: _____

In accordance with Tex. Transp. Code §503.033, this form is prescribed but not furnished by the Texas Department of Motor Vehicles as approved by the Attorney General of Texas on July 16, 1985.

SAMPLE

H.B. No. 3842

AN ACT

relating to the regulation of certain motor vehicle dealers;
waiving certain fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 501, Transportation Code,
is amended by adding Section 501.0236 to read as follows:

Sec. 501.0236. ISSUANCE OF TITLE AND PERMITS WHEN DEALER
GOES OUT OF BUSINESS. (a) This section applies only to a person who
is the purchaser of a motor vehicle for which the dealer:

(1) is required to apply for a title for the vehicle
under Section 501.0234; and

(2) does not apply for the title because the dealer has
gone out of business.

(b) A purchaser to whom this section applies may apply for:

(1) a title in the manner prescribed by the department
by rule; and

(2) on expiration of the buyer's tag issued to the
purchaser under Section 503.063, a 30-day permit under Section
502.095.

(c) An application for a title under this section must
include a release of any recorded lien on the motor vehicle unless
the only recorded lienholder is a dealer described by Subsection
(a).

(d) The department shall waive the payment of fees for:

H.B. No. 3842

1 (1) a title issued to a purchaser described by this
2 section, if the purchaser can show that fees for a title were paid
3 to the dealer; and

4 (2) one 30-day permit issued to a purchaser described
5 by this section.

6 (e) Notwithstanding Section 503.033(e), the department may
7 recover against the surety bond executed by the dealer under
8 Section 503.033 the amount of any fee waived for a title or permit
9 issued under this section.

10 (f) The department shall adopt the rules necessary to
11 implement this section.

12 SECTION 2. Section 503.027(a), Transportation Code, is
13 amended to read as follows:

14 (a) A ~~[If a dealer consigns for sale more than five vehicles~~
15 ~~in a calendar year from a location other than the location for which~~
16 ~~the dealer holds a general distinguishing number, the]~~ dealer must
17 ~~[also]~~ hold a general distinguishing number for a ~~[the]~~ consignment
18 location unless the consignment location is a wholesale motor
19 vehicle auction.

20 SECTION 3. This Act takes effect September 1, 2019.

H.B. No. 3842

President of the Senate

Speaker of the House

I certify that H.B. No. 3842 was passed by the House on April 30, 2019, by the following vote: Yeas 131, Nays 15, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3842 on May 24, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3842 on May 26, 2019, by the following vote: Yeas 128, Nays 14, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3842

I certify that H.B. No. 3842 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 27, Nays 4; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3842 on May 25, 2019, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor

Texas Administrative Code

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 10</u>	TEXAS DEPARTMENT OF MOTOR VEHICLES
<u>CHAPTER 217</u>	VEHICLE TITLES AND REGISTRATION
<u>SUBCHAPTER A</u>	MOTOR VEHICLE TITLES
RULE §217.16	Application for Title When Dealer Goes Out of Business

-
- (a) A person who purchased a vehicle from a dealer who is required to apply for a title on the purchaser's behalf under Transportation Code, §501.0234 may apply for title as prescribed by this section if the dealer has gone out of business and did not apply for title.
- (b) For purposes of this section, a dealer has gone out of business if:
- (1) the dealer's license has been closed or has expired; or
 - (2) operations have ceased at the licensed location as determined by the department.
- (c) For purposes of this section, a person must obtain a letter on department letterhead stating a dealer has gone out of business. A person may request the letter by contacting the department, including a Regional Service Center, or a county tax assessor-collector's office.
- (d) An application under subsection (a) of this section must meet the requirements of §217.4 of this title (relating to Initial Application for Title) except the applicant:
- (1) must provide the sales contract, retail installment agreement, or buyer's order in lieu of evidence of vehicle ownership as described in §217.5(a) of this title (relating to Evidence of Motor Vehicle Ownership);
 - (2) must provide the letter described by subsection (c) of this section; and
 - (3) is not required to provide a release of lien if the only recorded lienholder is the dealer that has gone out of business.
- (e) If a title application under this section does not include a properly completed odometer disclosure statement, as required by Transportation Code, §501.072, the odometer brand will be recorded as "NOT ACTUAL MILEAGE."
- (f) The department will waive the payment of the following fees if the applicant can provide evidence showing the fee was paid to the dealer:
- (1) a title application fee under Transportation Code, §501.138;
 - (2) delinquent transfer penalty under Transportation Code, §501.146;
 - (3) all fees under Transportation Code, Chapter 502; and
 - (4) the buyer's temporary tag fee under Transportation Code, §503.063.

Source Note: The provisions of this §217.16 adopted to be effective March 1, 2020, 45 TexReg 1230

Texas Administrative Code

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 10</u>	TEXAS DEPARTMENT OF MOTOR VEHICLES
<u>CHAPTER 217</u>	VEHICLE TITLES AND REGISTRATION
<u>SUBCHAPTER B</u>	MOTOR VEHICLE REGISTRATION
RULE §217.40	Special Registrations

(a) Purpose and scope. Transportation Code, Chapter 502, Subchapters C and I, charge the department with the responsibility of issuing special registration permits which shall be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. For the department to efficiently and effectively perform these duties, this section prescribes the policies and procedures for the application and the issuance of temporary registration permits.

(b) Permit categories. The department will issue the following categories of special registration permits.

(1) Additional weight permits. The owner of a truck, truck tractor, trailer, or semitrailer may purchase temporary additional weight permits for the purpose of transporting the owner's own seasonal agricultural products to market or other points for sale or processing in accordance with Transportation Code, §502.434. In addition, such vehicles may be used for the transportation without charge of seasonal laborers from their place of residence, and materials, tools, equipment, and supplies from the place of purchase or storage, to a farm or ranch exclusively for use on such farm or ranch.

(A) Additional weight permits are valid for a limited period of less than one year.

(B) An additional weight permit will not be issued for a period of less than one month or extended beyond the expiration of a license plate issued under Transportation Code, Chapter 502.

(C) The statutory fee for an additional weight permit is based on a percentage of the difference between the owner's annual registration fee and the annual fee for the desired gross vehicle weight computed as follows:

- (i) one-month (or 30 consecutive days)--10%;
- (ii) one-quarter (three consecutive months)--30%;
- (iii) two-quarters (six consecutive months)--60%; or
- (iv) three-quarters (nine consecutive months)--90%.

(D) Additional weight permits are issued for calendar quarters with the first quarter to begin on April 1st of each year.

(E) A permit will not be issued unless the registration fee for hauling the additional weight has been paid prior to the actual hauling.

(F) An applicant must provide proof of the applicant's Texas Agriculture or Timber Exemption Registration Number issued by the Texas Comptroller of Public Accounts. Proof of the registration number must be:

- (i) legible;
- (ii) current;
- (iii) in the name of the person or dba in which the vehicle is or will be registered; and

(iv) verifiable through the online system established by the Comptroller.

(2) Annual permits.

(A) Transportation Code, §502.093 authorizes the department to issue annual permits to provide for the movement of foreign commercial vehicles that are not authorized to travel on Texas highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. The department will issue annual permits:

(i) for a 12-month period designated by the department which begins on the first day of a calendar month and expires on the last day of the last calendar month in that annual registration period; and

(ii) to each vehicle or combination of vehicles for the registration fee prescribed by weight classification in Transportation Code, §502.253 and §502.255.

(B) The department will not issue annual permits for the importation of citrus fruit into Texas from a foreign country except for foreign export or processing for foreign export.

(C) The following exemptions apply to vehicles displaying annual permits.

(i) Currently registered foreign semitrailers having a gross weight in excess of 6,000 pounds used or to be used in combination with commercial motor vehicles or truck tractors having a gross vehicle weight in excess of 10,000 pounds are exempted from the requirements to pay the token fee and display the associated distinguishing license plate provided for in Transportation Code, §502.255. An annual permit is required for the power unit only. For vehicles registered in combination, the combined gross weight may not be less than 18,000 pounds.

(ii) Vehicles registered with annual permits are not subject to the optional county registration fee under Transportation Code, §502.401; the optional county fee for transportation projects under Transportation Code, §502.402; or the optional registration fee for child safety under Transportation Code, §502.403.

(3) 72-hour permits and 144-hour permits.

(A) In accordance with Transportation Code, §502.094, the department will issue a permit valid for 72 hours or 144 hours for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by residents of the United States, Mexico, or Canada.

(B) A 72-hour permit or a 144-hour permit is valid for the period of time stated on the permit beginning with the effective day and time as shown on the permit registration receipt.

(C) Vehicles displaying 72-hour permits or 144-hour permits are subject to vehicle safety inspection in accordance with Transportation Code, §548.051, except for:

(i) vehicles currently registered in another state of the United States, Mexico, or Canada; and

(ii) mobile drilling and servicing equipment used in the production of gas, crude petroleum, or oil, including, but not limited to, mobile cranes and hoisting equipment, mobile lift equipment, forklifts, and tugs.

(D) The department will not issue a 72-hour permit or a 144-hour permit to a commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violation of Texas registration laws. Apprehended vehicles must be registered under Transportation Code, Chapter 502.

(4) Temporary agricultural permits.

(A) Transportation Code, §502.092 authorizes the department to issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer to be used in the movement of all agriculture products produced in Texas:

(i) from the place of production to market, storage, or railhead not more than 75 miles from the place of production; or

(ii) to be used in the movement of machinery used to harvest Texas-produced agricultural products.

(B) The department will issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer used to move or harvest farm products, produced outside of Texas, but:

(i) marketed or processed in Texas; or

(ii) moved to points in Texas for shipment from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than 80 miles from such point of entry into Texas.

(C) The statutory fee for temporary agricultural permits is one-twelfth of the annual Texas registration fee prescribed for the vehicle for which the permit is issued.

(D) The department will issue a temporary agricultural permit only when the vehicle is legally registered in the nonresident's home state or country for the current registration year.

(E) The number of temporary agricultural permits is limited to three permits per nonresident owner during any one vehicle registration year.

(F) Temporary agricultural permits may not be issued to farm licensed trailers or semitrailers.

(5) One-trip permits. Transportation Code, §502.095 authorizes the department to temporarily register any unladen vehicle upon application to provide for the movement of the vehicle for one trip, when the vehicle is subject to Texas registration and not authorized to travel on the public roadways for lack of registration or lack of registration reciprocity.

(A) Upon receipt of the \$5 fee, registration will be valid for one trip only between the points of origin and destination and intermediate points as may be set forth in the application and registration receipt.

(B) The department will issue a one-trip permit to a bus which is not covered by a reciprocity agreement with the state or country in which it is registered to allow for the transit of the vehicle only. The vehicle should not be used for the transportation of any passenger or property, for compensation or otherwise, unless such bus is operating under charter from another state or country.

(C) A one-trip permit is valid for a period up to 15 days from the effective date of registration.

(D) A one-trip permit may not be issued for a trip which both originates and terminates outside Texas.

(E) A laden motor vehicle or a laden commercial vehicle cannot display a one-trip permit. If the vehicle is unregistered, it must operate with a 72-hour or 144-hour permit.

(6) 30-day temporary registration permits. Transportation Code, §502.095 authorizes the department to issue a temporary registration permit valid for 30 days for a \$25 fee. A vehicle operated on a 30-day temporary permit is not restricted to a specific route. The permit is available for:

(A) passenger vehicles;

(B) motorcycles;

(C) private buses;

(D) trailers and semitrailers with a gross weight not exceeding 10,000 pounds;

(E) light commercial vehicles not exceeding a gross weight of 10,000 pounds; and

(F) a commercial vehicle exceeding 10,000 pounds, provided the vehicle is operated unladen.

(c) Application process.

(1) Procedure. An owner who wishes to apply for a temporary registration permit for a vehicle which is otherwise required to be registered in accordance with this subchapter, must do so on a form prescribed by the department.

(2) Form requirements. The application form will at a minimum require:

- (A) the signature of the owner;
- (B) the name and complete address of the applicant; and
- (C) the vehicle description.

(3) Fees and documentation. The application must be accompanied by:

(A) statutorily prescribed fees, unless the applicant is exempt from fees under Transportation Code, §501.0236 and provides the letter specified in §217.16(c) of this title (relating to Application for Title When Dealer Goes Out of Business);

(B) evidence of financial responsibility:

(i) as required by Transportation Code, Chapter 502, Subchapter B, provided that all policies written for the operation of motor vehicles must be issued by an insurance company or surety company authorized to write motor vehicle liability insurance in Texas; or

(ii) if the applicant is a motor carrier as defined by §218.2 of this title (relating to Definitions), indicating that the vehicle is registered in compliance with Chapter 218, Subchapter B of this title (relating to Motor Carrier Registration); and

(C) any other documents or fees required by law.

(4) Place of application.

(A) All applications for annual permits must be submitted directly to the department for processing and issuance.

(B) Additional weight permits and temporary agricultural permits may be obtained by making application with the department through the county tax assessor-collectors' offices.

(C) 72-hour and 144-hour permits, one-trip permits, and 30-day temporary registration permits may be obtained by making application either with the department or the county tax assessor-collectors' offices.

(d) Receipt for permit in lieu of registration. A receipt will be issued for each permit in lieu of registration to be carried in the vehicle during the time the permit is valid. A one-trip or 30-day trip permit must be displayed as required by Transportation Code, §502.095(f). If the receipt is lost or destroyed, the owner must obtain a duplicate from the department or from the county office. The fee for the duplicate receipt is the same as the fee required by Transportation Code, §502.058.

(e) Transfer of temporary permits.

(1) Temporary permits are non-transferable between vehicles and/or owners.

(2) If the owner of a vehicle displaying a temporary permit disposes of the vehicle during the time the permit is valid, the permit must be returned to the county tax assessor-collector office or department immediately.

(f) Replacement permits. Vehicle owners displaying annual permits may obtain replacement permits if an annual permit is lost, stolen, or mutilated.

(1) The fee for a replacement annual permit is the same as for a replacement number plate, symbol, tab, or other device as provided by Transportation Code, §502.060.

(2) The owner shall apply directly to the department in writing for the issuance of a replacement annual permit. Such request should include a copy of the registration receipt and replacement fee.

(g) Agreements with other jurisdictions. In accordance with Transportation Code, §502.091, and Chapter 648, the executive director of the department may enter into a written agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents, if residents of this state are granted reciprocal exemptions. The executive director may enter into such agreement only upon:

- (1) the approval of the governor; and
- (2) making a determination that the economic benefits to the state outweigh all other factors considered.

(h) Border commercial zones.

(1) Texas registration required. A vehicle located in a border commercial zone must display a valid Texas registration if the vehicle is owned by a person who:

- (A) owns a leasing facility or a leasing terminal located in Texas; and
- (B) leases the vehicle to a foreign motor carrier.

(2) Exemption for trips of short duration. Except as provided by paragraph (1) of this subsection, a foreign commercial vehicle operating in accordance with Transportation Code, Chapter 648 is exempt from the display of a temporary registration permit if:

(A) the vehicle is engaged solely in the transportation of cargo across the border into or from a border commercial zone;

(B) for each load of cargo transported the vehicle remains in this state for:

- (i) not more than 24 hours; or
- (ii) not more than 48 hours, if:

(I) the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and

(II) all financial responsibility requirements applying to this vehicle are satisfied;

(C) the vehicle is registered and licensed as required by the country in which the person that owns the vehicle is domiciled or is a citizen as evidenced by a valid metal license plate attached to the front or rear exterior of the vehicle; and

(D) the country in which the person who owns the vehicle is domiciled or is a citizen provides a reciprocal exemption for commercial motor vehicles owned by residents of Texas.

(3) Exemption due to reciprocity agreement. Except as provided by paragraph (1) of this subsection, a foreign commercial motor vehicle in a border commercial zone in this state is exempt from the requirement of obtaining a Texas registration if the vehicle is currently registered in another state of the United States or a province of Canada with which this state has a reciprocity agreement that exempts a vehicle that is owned by a resident of this state and that is currently registered in this state from registration in the other state or province.

Source Note: The provisions of this §217.40 adopted to be effective March 12, 2015, 40 TexReg 1096; amended to be effective August 8, 2016, 41 TexReg 5766; amended to be effective December 4, 2016, 41 TexReg 9335; amended to be effective March 1, 2020, 45 TexReg 1230