

TITLE 43

Part 11. FORT BEND COUNTY TAX ASSESSOR-COLLECTOR

Chapter 301. REGULATION OF MOTOR VEHICLE TITLE SERVICES

43 TAC §301.1

The Fort Bend County Tax Assessor-Collector's Office proposes new §301.1, concerning the regulation of motor vehicle title services. Prior to the adoption of Texas Transportation Code 520, Subchapter E, motor vehicle title services were unregulated, posted no bonds, and were not required to maintain records. Such third-party title services have been linked to vehicle insurance fraud and car theft. Texas Transportation Code 520, Subchapter E regulates motor vehicle title services in counties with a population of more than 500,000 and requires that motor vehicle title services in such counties be registered and licensed, and required to maintain records that are available for inspection.

For the first five-year period these rules are in effect, there will be no fiscal implications for the state or for local government. The county will keep all revenues from the licensing to offset spending. For each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rules will be to reduce auto theft and associated document fraud.

The Fort Bend County Tax Assessor-Collector has received motor vehicle titles service records from nearly 200 entities since 2005. Nearly all of these entities are small businesses, many of which are micro-businesses. The economic costs for persons who are required to comply with these rules will be the license fee which is due upon application and is not refundable. Small businesses that comply with the rule may experience increased business opportunities because non-compliant competitors will be sanctioned.

In preparing these proposed rules, the Fort Bend County Tax Assessor-Collector considered processes which require less information from applicants, informal tracking of records and random document confirmation but concluded that public welfare and safety would benefit from clear, consistent standards. The Fort Bend County Tax Assessor-Collector also considered assessing lower and higher license fees but concluded that 43 TAC § 95.1 set prevailing fee amounts for motor vehicle title services and proposes the same fees to promote consistency among contiguous counties.

Comments on the proposed new rule may be submitted to Laura Gustowsky, Chief Deputy, Fort Bend County Tax Office 1317 Eugene Heimann Circle, Richmond, Texas. The deadline for all comments is 30 days after publication in the Texas Register.

The new rule is proposed pursuant Transportation Code Chapter 520, Subchapter E, which provides the county tax assessor-collector the authority to adopt rules regarding motor vehicle titles services.

§301.1 Motor Vehicle Title Service Licensing

(a) DEFINITIONS

- (1) "Motor vehicle" has the meaning assigned by Texas Transportation Code Section 501.002.
- (2) "Motor vehicle title service" means any person that for compensation directly or indirectly assists other persons in obtaining title documents by submitting, transmitting, or sending applications for title documents to the appropriate government agencies.
- (3) "Title documents" means motor vehicle title applications, motor vehicle registration renewal applications, motor vehicle mechanic's lien title applications, motor vehicle storage lien title applications, motor vehicle temporary registration permits, motor vehicle title application transfers occasioned by the death of the title holder, or notifications under Chapter 683 of this code or Chapter 70, Property Code.
- (4) "Title service license holder" means a person who holds a motor vehicle title service license or a title service runner's license.
- (5) "Title service record" means the written record for each transaction in which a motor vehicle title service receives compensation.
- (6) "Title service runner" means any person employed by a licensed motor vehicle title service to submit or present title documents to the county tax assessor-Collector.

(b) LICENSE REQUIRED

- (1) A person may not act as a motor vehicle title service or act as an agent for that business (which includes a title service runner) in Fort Bend County unless that person holds a license issued by the Fort Bend County Tax Assessor-Collector.
- (2) A person commits an offense if the person violates a motor vehicle title service license rule adopted by the Fort Bend County Tax Assessor-Collector. Such an offense is a Class A misdemeanor.
- (3) Any unlicensed individual observed conducting motor vehicle transactions on behalf of others in Fort Bend County and who claims to be doing so without compensation shall complete an affidavit stating that they are not receiving compensation for the transaction. This affidavit shall be notarized and will be forwarded to the appropriate law-enforcement agencies by a deputy of the Fort Bend County Tax Assessor-Collector.

(c) LICENSE FEES

- (1) License fees must be remitted when the application is submitted and are non-refundable.

- (2) The fee for a vehicle title service company license shall for \$200.00 for the initial application and \$100.00 for each annual renewal.
- (3) The fee for a title service runner license shall be \$50.00 for the initial application and \$50.00 for each annual renewal.

(d) GENERAL LICENSE APPLICATION REQUIREMENTS

- (1) Applications may only be made at the Fort Bend County Tax Office, 1317 Eugene Heimann Circle, Richmond, Texas.
- (2) An applicant for a motor vehicle title service license must complete all forms required by Fort Bend County Tax Assessor-Collector. The applicant must sign the application form and pay the license fee.
- (3) All applicants must present picture identification at the time of application. Lack of valid, picture identification shall disqualify an applicant from being licensed in Fort Bend County.
- (4) An applicant must be at least 16 years of age on the date the application is submitted to apply for a license in Fort Bend County.
- (5) The motor vehicle service company shall assume the responsibility for the accuracy and validity of all documents presented to the Fort Bend County Tax Assessor-Collector under its name.
- (6) An application must include:
 - A. the applicant's name, business address, and business telephone number;
 - B. the name under which the applicant will do business;
 - C. the physical address of each office from which the applicant will conduct business (a PO Box will not be accepted) and a corresponding photo of each building where business is being conducted;
 - D. the name of all individuals who have an ownership interest in the applicant motor vehicle title service company; and
 - E. if applicable, motor vehicle license information for each individual who has an ownership interest in the applicant motor vehicle title service company.
- (7) Runners must be identified and sponsored by the motor vehicle title service company in order to conduct business on its behalf. The required documents for any runner must be on file with each service company for which the runner is an authorized agent. Individuals whose names are not on file of a title company will not be allowed to conduct business in Fort Bend County on behalf of that title service company.
- (8) Applicants will be notified of the outcome of an application within fifteen (15) business days of the application being submitted to the Fort Bend County Tax Assessor-Collector. This notification will be mailed to the business address listed on the application.
- (9) All licenses are issued for a one (1) year period and must be renewed each year after. A renewal application has the same requirements as a new application.

- (10) A license may not be issued under a fictitious name that is similar to or may be confused with the name of a governmental entity or that is deceptive or misleading to the public.

(e) **APPLICATION REQUIREMENTS: CORPORATION.** In addition to the General License Application Requirements, an applicant for a motor vehicle title service license that intends to engage in business as a corporation shall submit the following information:

- (1) a "doing business as" (DBA) certificate or articles of incorporation
- (2) the name, address, date of birth, and social security number of each of the principal owners and directors of the corporation;
- (3) information about each officer and director as requested by the Fort Bend County Tax Assessor-Collector to establish the business reputation and character of the applicant; and
- (4) a statement indicating whether an employee, officer, or director has been refused a motor vehicle title service license or a title service runner's license or has been the holder of a license that was revoked or suspended in any Texas County.

(f) **APPLICATION REQUIREMENTS: PARTNERSHIP.** In addition to the information required in General License Application Requirements, a motor vehicle title service license applicant that intends to engage in business as a partnership shall submit an application that includes the following information:

- (1) the name, address, date of birth, and social security number of each partner;
- (2) information about each partner as requested by the Fort Bend County Tax Assessor-Collector to establish the business reputation and character of the applicant; and
- (3) a statement indicating whether a partner or employee has been refused a motor vehicle title service license or a title service runner's license or has been the holder of a license that was revoked or suspended in any Texas County.

(g) **DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.**

- (1) Grounds for the denial, suspension, revocation, or reinstatement of a license in Fort Bend County:
 - A. Submitting false information on the application form or any supporting documents;
 - B. Having been convicted of a felony or a crime of moral turpitude for which the completion date of the applicant's sentence is less than five (5) years from the date of applying for a motor vehicle title service license; or
 - C. Having been found in violation of the administrative procedures required by the Texas Department of Transportation.

- D. Having been found to have submitted a vehicle packet to the Fort Bend County Tax Assessor-Collector's office which contains false information and the Fort Bend County Tax Assessor-Collector determines that the false information was intentionally submitted by the motor vehicle title service company.
 - E. A runner license may be cancelled or suspended if the runner has presented a title packet to the Fort Bend County Tax Assessor-Collector that was not authorized by a licensed motor vehicle title service company or if the runner altered or forged the original paperwork prepared for and signed by the motor vehicle title service.
- (2) If the Fort Bend County Tax Assessor-Collector makes a determination that a person's license hereunder should be denied, cancelled, suspended or revoked, then the County Tax Assessor-Collector shall send notice of the action to the person, by registered or certified mail, stating the facts or conduct alleged to warrant the action.
 - (3) Upon a determination of misrepresentation, fraud, or other cause, the Fort Bend County Tax Assessor-Collector may order a 90-day suspension of license for the first offense and a 180-day suspension of license for the second offense. A license may be revoked upon a third offense.
 - (4) The Fort Bend County Tax Assessor-Collector may revoke any license upon conviction of license holder for a felony or crime of moral turpitude.
 - (5) A person whose license is revoked may not apply for a new license before the first anniversary of the date of the revocation.

(h) APPEALS

- (1) The Fort Bend County Tax Assessor-Collector shall appoint a five member Review Board to review any appeal of action for refusal, cancellation, suspension, revocation, or reinstatement of license. The Review Board shall consist of two deputies from the Fort Bend County Tax Assessor-Collector's office, two law enforcement officers and one representative from the motor vehicle industry.
- (2) Memberships will last for two years and replacements will be selected on a staggered basis. For the first year that the Board is established, two of the memberships shall be for one year to accommodate staggering. A member may be reappointed for additional terms as deemed appropriate by the Fort Bend County Tax Assessor-Collector.
- (3) A person that receives notice of adverse action taken on their own license by the Fort Bend County Tax Assessor-Collector may submit a written request for appeal or protest, and submit evidence, in the form of documents or testimony, to demonstrate that person's compliance with all requirements for the issuance, retention, or reinstatement of their license. The person must submit evidence and/or file a written request for an appeal of action taken on their own license with the County Tax Assessor-

Collector within 20 calendar days from the date of the notice of action on their license.

- (4) Submitting evidence and/or filing a written request for an appeal must be sent to Fort Bend County Tax Office, 1317 Eugene Heimann Circle, Richmond, Texas by certified mail.
- (5) Upon timely filing of a request for an appeal, the County Tax Assessor-Collector shall request review by the Review Board. The adverse action shall be stayed until a final decision is made on the license.
- (6) The Review Board shall meet as needed, on a date determined by the Fort Bend County Tax Assessor-Collector. The Board will review any appeals and make a recommendation to the County Tax Assessor-Collector stating whether the Board agrees or disagrees with the action taken.
- (7) The Fort Bend County Tax Assessor-Collector shall appoint a member of the Review Board to chair meetings of the Review Board.
- (8) A quorum of three members of the Review Board must be present to render a decision. No proxy votes will be allowed.
- (9) A simple majority vote of Review Board members shall determine the recommendation on matters under consideration.
- (10) All decisions related to license appeals or protests shall be subject to final review and determination by the Fort Bend County Tax Assessor-Collector. The Fort Bend County Tax Assessor-Collector shall send disposition of the Appeal to the person, by registered or certified mail. If the Fort Bend Tax Assessor-Collector does not reinstate the license, any adverse action stayed by the appeal will be reinstated.

(i) LICENSE RENEWAL.

- (1) A license pursuant to these rules expires on the first anniversary of the date of issuance and may be renewed annually on or before the expiration date on payment of the required renewal fee.
- (2) A person who is otherwise eligible to renew a license may renew an unexpired license by paying to the Fort Bend County Tax Assessor-Collector before the expiration date of the license the required renewal fee. A person whose license has expired may not engage in activities that require a license until the license has been renewed under this section.
- (3) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the Fort Bend County Tax Assessor-Collector 1-1/2 times the required renewal fee.
- (4) If a person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the Fort Bend County Tax Assessor-Collector two times the required renewal fee.
- (5) If a person's license has been expired for one year or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.
- (6) Notwithstanding Section 5, if a person was licensed in this state, moved to another state, and has been doing business in the other state for the two

years preceding application, the person may renew an expired license. The person must pay to the Fort Bend County Tax Assessor-Collector a fee that is equal to two times the required renewal fee for the license.

- (7) Before the 30th day preceding the date on which a person's license expires, the Fort Bend County Tax Assessor-Collector shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the Fort Bend County Tax Assessor-Collector.

(J) REQUIREMENTS FOR CONDUCTING MOTOR VEHICLE LICENSE TRANSACTIONS

- (1) All vehicle transactions for Fort Bend County will be processed at Fort Bend County Tax Office, 1317 Eugene Heimann Circle, Richmond, Texas.
- (2) A Fort Bend County Tax Assessor-Collector vehicle transaction form must accompany all motor vehicle service transactions. The motor vehicle title service company is responsible for the accuracy and validity of the information for each vehicle listed. Only vehicles authorized and listed by the licenses motor vehicle title service company will be processed.
- (3) All vehicles for which the title service company wants to complete a transaction on must be listed and identified as transfer or ownership, renewal or replacement of license plates or registration sticker on the transaction form.
- (4) After the final vehicle transaction on each transaction sheet is completed, a copy of the transaction sheet will remain on file at the office of the Fort Bend County Tax Assessor-Collector.
- (5) A holder of a motor vehicle title service license shall maintain records as required by the Fort Bend County Tax Assessor-Collector for each transaction in which the license holder receives compensation. The records shall include:
 - A. the date of the transaction;
 - B. the name, age, address, sex, driver's license number, and a legible photocopy of the driver's license for each customer; and
 - C. the vehicle make, model, year, license plate number, vehicle identification number, and a legible photocopy of proof of financial responsibility for the motor vehicle involved
- (6) A motor vehicle title service shall keep:
 - A. two copies of all records required under this section for at least two years after the date of the transaction;
 - B. legible photocopies of any documents submitted by a customer; and
 - C. legible photocopies of any documents submitted to the Fort Bend County Tax Assessor-Collector.
- (7) A motor vehicle title service license holder or any of its employees shall allow an inspection of the required records by a peace officer on the

premises of the motor vehicle title service at any reasonable time to verify, check, or audit the records.

(k) EXEMPTIONS. The following persons and their agents are exempt from the licensing and other requirements described herein:

- (1) a franchised motor vehicle dealer or independent motor vehicle dealer who holds a general distinguishing number issued by the department under Texas Transportation Code Chapter 503;
- (2) a vehicle lessor holding a license issued by the Motor Vehicle Board under Chapter 2301, Texas Occupations Code, or a trust or other entity that is specifically not required to obtain a lessor license under Section 2301.254(a) of that code; and
- (3) a vehicle lease facilitator holding a license issued by the Motor Vehicle Board under Chapter 2301, Texas Occupations Code.

Fort Bend County Tax Assessor- Collector certifies that the proposal has been reviewed by legal counsel and found to be within the County's legal authority to adopt.

Filed with the Secretary of State on June 28, 2010.

Patsy Schultz, RTA, Tax Assessor-Collector

Earliest possible date of adoption: August 8, 2010.

For further information please call 281-341-3709.

SUBCHAPTER E. MOTOR VEHICLE TITLE SERVICES

Sec. 520.051. DEFINITIONS. In this subchapter:

(1) "Motor vehicle" has the meaning assigned by Section 501.002.

(2) "Motor vehicle title service" means any person that for compensation directly or indirectly assists other persons in obtaining title documents by submitting, transmitting, or sending applications for title documents to the appropriate government agencies.

(3) "Title documents" means motor vehicle title applications, motor vehicle registration renewal applications, motor vehicle mechanic's lien title applications, motor vehicle storage lien title applications, motor vehicle temporary registration permits, motor vehicle title application transfers occasioned by the death of the title holder, or notifications under Chapter 683 of this code or Chapter 70, Property Code.

(4) "Title service license holder" means a person who holds a motor vehicle title service license or a title service runner's license.

(5) "Title service record" means the written record for each transaction in which a motor vehicle title service receives compensation.

(6) "Title service runner" means any person employed by a licensed motor vehicle title service to submit or present title documents to the county tax assessor-collector.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.052. APPLICABILITY. This subchapter applies to any motor vehicle title service operating in a county:

(1) that has a population of more than 500,000;
or

(2) in which the commissioners court by order has adopted this subchapter.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 448, Sec. 1, eff. Sept. 1, 2003.

Sec. 520.053. LICENSE REQUIRED. A person may not act as a motor vehicle title service or act as an agent for that business unless that person holds a license issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.054. GENERAL LICENSE APPLICATION REQUIREMENTS. (a) An applicant for a motor vehicle title service license must apply on a form prescribed by the county tax assessor-collector. The application form must be signed by the applicant and accompanied by the application fee.

(b) An application must include:

(1) the applicant's name, business address, and business telephone number;

(2) the name under which the applicant will do business;

(3) the physical address of each office from which the applicant will conduct business;

(4) a statement indicating whether the applicant has previously applied for a license under this subchapter, the result of the previous application, and whether the applicant has ever been the holder of a license under this subchapter that was revoked or suspended;

(5) information from the applicant as required by the county tax assessor-collector to establish the business reputation and character of the applicant;

(6) the applicant's federal tax identification number;

(7) the applicant's state sales tax number; and

(8) any other information required by rules adopted under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.055. APPLICATION REQUIREMENTS:

CORPORATION. In addition to the information required in Section 520.054, an applicant for a motor vehicle title service license that intends to engage in business as a corporation shall submit the following information:

(1) the state of incorporation;

(2) the name, address, date of birth, and social security number of each of the principal owners and directors of the corporation;

(3) information about each officer and director as required by the county tax assessor-collector to establish the business reputation and character of the applicant; and

(4) a statement indicating whether an employee, officer, or director has been refused a motor vehicle title service license or a title service runner's license or has been the holder of a license that was revoked or suspended.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.056. APPLICATION REQUIREMENTS:

PARTNERSHIP. In addition to the information required in

Section 520.054, a motor vehicle title service license applicant that intends to engage in business as a partnership shall submit an application that includes the following information:

(1) the name, address, date of birth, and social security number of each partner;

(2) information about each partner as required by the county tax assessor-collector to establish the business reputation and character of the applicant; and

(3) a statement indicating whether a partner or employee has been refused a motor vehicle title service license or a title service runner's license or has been the holder of a license that was revoked or suspended.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.057. RECORDS. (a) A holder of a motor vehicle title service license shall maintain records as required by this section on a form prescribed and made available by the county tax assessor-collector for each transaction in which the license holder receives compensation. The records shall include:

(1) the date of the transaction;

(2) the name, age, address, sex, driver's license number, and a legible photocopy of the driver's license for each customer; and

(3) the license plate number, vehicle identification number, and a legible photocopy of proof of financial responsibility for the motor vehicle involved.

(b) A motor vehicle title service shall keep:

(1) two copies of all records required under this section for at least two years after the date of the transaction;

(2) legible photocopies of any documents submitted by a customer; and

(3) legible photocopies of any documents submitted to the county tax assessor-collector.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.058. INSPECTION OF RECORDS. A motor vehicle title service license holder or any of its employees shall allow an inspection of records required under Section 520.057 by a peace officer on the premises of the motor vehicle title service at any reasonable time to verify, check, or audit the records.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.059. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE. (a) The county tax assessor-collector may deny, suspend, revoke, or reinstate a license issued under this subchapter.

(b) The county tax assessor-collector shall adopt rules that establish grounds for the denial, suspension, revocation, or reinstatement of a license and rules that establish procedures for disciplinary action. Procedures issued under this subchapter are subject to Chapter 2001, Government Code.

(c) A person whose license is revoked may not apply for a new license before the first anniversary of the date of the revocation.

(d) A license may not be issued under a fictitious name that is similar to or may be confused with the name of a governmental entity or that is deceptive or misleading to the public.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.060. LICENSE RENEWAL. (a) A license issued under this subchapter expires on the first anniversary of the date of issuance and may be renewed annually on or before the expiration date on payment of the required renewal fee.

(b) A person who is otherwise eligible to renew a license may renew an unexpired license by paying to the county tax assessor-collector before the expiration date of the license the required renewal fee. A person whose license has expired may not engage in activities that require a license until the license has been renewed under this section.

(c) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the county tax assessor-collector 1-1/2 times the required renewal fee.

(d) If a person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the county tax assessor-collector two times the required renewal fee.

(e) If a person's license has been expired for one year or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(f) Notwithstanding Subsection (e), if a person was licensed in this state, moved to another state, and has been doing business in the other state for the two years preceding application, the person may renew an expired license. The person must pay to the county tax assessor-

collector a fee that is equal to two times the required renewal fee for the license.

(g) Before the 30th day preceding the date on which a person's license expires, the county tax assessor-collector shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the county tax assessor-collector.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.061. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a rule adopted by the county tax assessor-collector under this subchapter.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.062. INJUNCTION. (a) A district attorney of the county in which the motor vehicle title service is located may bring an action to enjoin the operation of a motor vehicle title service if the motor vehicle title service license holder or a runner of the motor vehicle title service while in the scope of the runner's employment is convicted of more than one offense under this subchapter.

(b) If the court grants relief under Subsection (a), the court may:

(1) enjoin the person from maintaining or participating in the business of a motor vehicle title service for a period of time as determined by the court; or

(2) declare the place where the person's business is located to be closed for any use relating to the business of the motor vehicle title service for as long as the person is enjoined from participating in that business.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.063. EXEMPTIONS. The following persons and their agents are exempt from the licensing and other requirements established by this subchapter:

(1) a franchised motor vehicle dealer or independent motor vehicle dealer who holds a general distinguishing number issued by the department under Chapter 503;

(2) a vehicle lessor holding a license issued by the Motor Vehicle Board under Chapter 2301, Occupations Code, or a trust or other entity that is specifically not required to obtain a lessor license under Section 2301.254(a) of that code; and

(3) a vehicle lease facilitator holding a license issued by the Motor Vehicle Board under Chapter 2301, Occupations Code.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.832, eff. Sept. 1, 2003.