

1 HB222  
2 197432-1  
3 By Representatives Pettus and Wood (R)  
4 RFD: State Government  
5 First Read: 19-MAR-19

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8 SYNOPSIS: Under existing law, motor vehicle dealers  
9 are required to be designated agents of the  
10 Department of Revenue and are required to enter  
11 into a bond to guarantee the faithful performance  
12 of their statutory duties. Dealers may perform  
13 these duties personally or through their officers  
14 or employees.

15 This bill would establish bonded title  
16 service providers and would provide that the  
17 providers may assist designated agents or  
18 lienholders or act on behalf of designated agents  
19 or lienholders in the performance of their duties.

20 This bill would also authorize the  
21 Department of Revenue to revoke the authority of a  
22 title service provider to act on its behalf and  
23 provide bonding requirements for title service  
24 providers.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 Relating to designated agents of the Department of  
4 Revenue; to amend Sections 32-8-2, 32-8-3, and 32-8-34, Code  
5 of Alabama 1975, to update the definition of designated agent  
6 to include title service providers; to authorize the  
7 department to revoke the authority of a title service provider  
8 to act on its behalf; and to provide the bonding requirements  
9 of title service providers.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 32-8-2, 32-8-3, and 32-8-34,  
12 Code of Alabama 1975, are amended to read as follows:

13 "§32-8-2.

14 "For the purpose of this chapter, the following  
15 terms shall have the meanings respectively ascribed to them in  
16 this section, except where the context clearly indicates a  
17 different meaning:

18 "(1) CURRENT ADDRESS. A new address different from  
19 the address shown on the application or on the certificate of  
20 title. The owner, within 30 days after the address is changed  
21 from that shown on the application or on the certificate of  
22 title, shall notify the department of the change of address in  
23 the manner prescribed by the department.

24 "(2) DEALER. A person licensed as an automobile or  
25 motor vehicle dealer, or travel trailer dealer and engaged  
26 regularly in the business of buying, selling, or exchanging  
27 motor vehicles, trailers, semitrailers, trucks, tractors or

1 other character of commercial or industrial motor vehicles, or  
2 travel trailers in this state, and having in this state an  
3 established place of business.

4 "(3) DEPARTMENT. The Department of Revenue of this  
5 state.

6 "(4) DESIGNATED AGENT. Each judge of probate,  
7 commissioner of licenses, director of revenue, or other county  
8 official in this state authorized and required by law to issue  
9 motor vehicle license tags, who may perform his or her duties  
10 under this chapter personally or through his or her deputies,  
11 ~~or such other persons located in this state, as the department~~  
12 ~~may designate~~; the term shall also mean those dealers as  
13 herein defined who are appointed by the department as provided  
14 in Section 32-8-34 and such persons who are appointed by the  
15 department as provided in subsection (c) of Section 32-8-34 to  
16 perform the duties of designated agent for the purposes of  
17 this chapter, ~~the~~. Such dealers or other designated persons  
18 may perform their duties under this chapter either personally,  
19 ~~or~~ through any of their officers or employees, or through a  
20 title service provider.

21 "(5) IMPLEMENT OF HUSBANDRY. Every vehicle designed  
22 and adapted exclusively for agricultural, horticultural, or  
23 livestock raising operations or for lifting or carrying an  
24 implement of husbandry and in either case not subject to  
25 licensing or registration if used upon the highways.

26 "(6) LIEN. Every kind of written lease which is  
27 substantially equivalent to an installment sale or which

1 provides for a right of purchase, conditional sale,  
2 reservation of title, deed of trust, chattel mortgage, trust  
3 receipt, and every written agreement or instrument of whatever  
4 kind or character whereby an interest other than absolute  
5 title is sought to be held or given on a motor vehicle.

6 "(7) LIENHOLDER. Any person, firm, copartnership,  
7 association, or corporation holding a lien as herein defined  
8 on a motor vehicle.

9 "(8) MANUFACTURER. Any person regularly engaged in  
10 the business of manufacturing, constructing, assembling,  
11 importing, or distributing new motor vehicles, either within  
12 or without this state.

13 "(9) MOTOR VEHICLE. The term shall include all of  
14 the following:

15 "a. Every automobile, motorcycle, mobile trailer,  
16 semitrailer, truck, truck tractor, trailer, and other device  
17 that is self-propelled or drawn, in, upon, or by which any  
18 person or property is or may be transported or drawn upon a  
19 public highway except such as is moved by animal power or used  
20 exclusively upon stationary rails or tracks.

21 "b. Every trailer coach and travel trailer  
22 manufactured upon a chassis or undercarriage as an integral  
23 part thereof drawn by a self-propelled vehicle.

24 "(10) NEW VEHICLE. A motor vehicle that has never  
25 been the subject of a first sale for use by a new motor  
26 vehicle dealer as defined in Section 40-12-390 or an  
27 equivalently licensed dealer in another state and includes,

1 among others, vehicles maintained in a dealer's inventory,  
2 vehicles provided by the manufacturer or dealer for use by  
3 participants in charity, sporting, or other special events,  
4 vehicles used for drivers' education, and vehicles delivered  
5 to customers that were subsequently returned to the dealer  
6 without a registration being issued on the vehicle.

7 "(11) NONRESIDENT. Every person who is not a  
8 resident of this state.

9 "(12) OWNER. A person, other than a lienholder,  
10 having the property in or title to a vehicle. The term  
11 includes a person entitled to the use and possession of a  
12 vehicle subject to a security interest in another person, but  
13 excludes a lessee under a lease not intended as security.  
14 Under any lease-purchase or installment sales agreement where  
15 a governmental agency, either city, county or state, is the  
16 lessee or purchaser with a security interest or right to  
17 purchase, the lessee or purchaser shall be the owner for  
18 purposes of this chapter.

19 "(13) PERSON. The term shall include every natural  
20 person, firm, copartnership, association, or corporation.

21 "(14) PICKUP TRUCK. A truck with not more than two  
22 axles and a gross weight not exceeding 12,000 pounds.

23 "(15) POLE TRAILER. Every vehicle without motive  
24 power designed to be drawn by another vehicle and attached to  
25 the towing vehicle by means of a reach or pole, or by being  
26 boomed or otherwise secured to the towing vehicle, and  
27 ordinarily used for transporting long or irregularly shaped

1 loads such as logs, poles, pipes, boats, or structural members  
2 capable generally of sustaining themselves as beams between  
3 the supporting connections.

4 "(16) SCRAP METAL PROCESSOR. Any person, firm, or  
5 corporation engaged in the business of buying scrap vehicles,  
6 automotive parts, or other metallic waste by weight to process  
7 the material into scrap metal for remelting purposes, who  
8 utilizes machinery and equipment for processing and  
9 manufacturing ferrous and nonferrous metallic scrap into  
10 prepared grades, and whose principal product is metallic  
11 scrap.

12 "(17) SCRAP VEHICLE. Any vehicle that has been  
13 crushed or flattened by mechanical means or which has been  
14 otherwise damaged to the extent that it cannot economically be  
15 repaired or made roadworthy.

16 "(18) SECURITY AGREEMENT. A written agreement that  
17 reserves or creates a security interest.

18 "(19) SECURITY INTEREST. An interest in a vehicle  
19 reserved or created by agreement and which secures payment or  
20 performance of an obligation. The term includes the interest  
21 of a lessor under a lease intended as security. A security  
22 interest is perfected when it is valid against third parties  
23 generally, subject only to specific statutory exceptions.

24 "(20) SPECIAL MOBILE EQUIPMENT. Every vehicle not  
25 designed or used primarily for the transportation of persons  
26 or property and only incidentally operated or moved over the  
27 highway, including but not limited to: ditch-digging

1 apparatus; well-boring apparatus; road construction and  
2 maintenance machinery such as asphalt spreaders, bituminous  
3 mixers, bucket loaders, tractors other than truck tractors,  
4 ditchers, leveling graders, finishing machines, motor graders,  
5 road rollers, scarifiers, earth-moving carryalls and scrapers,  
6 power shovels and draglines, and self-propelled cranes; and  
7 earth-moving equipment. The term does not include manufactured  
8 homes, dump trucks, truck-mounted transit mixers, cranes, or  
9 shovels or other vehicles designed for the transportation of  
10 persons or property to which machinery has been attached.

11 "(21) STATE. A state, territory, or possession of  
12 the United States, the District of Columbia, the Commonwealth  
13 of Puerto Rico, or a province of the Dominion of Canada.

14 "(22) TITLE SERVICE PROVIDER. A person who is bonded  
15 under subsection (d) of Section 32-8-4 and authorized by the  
16 department to act as an agent for a fee or other consideration  
17 on behalf of the following persons in the performance of their  
18 duties under this chapter:

19 "a. A dealer or other designated person appointed  
20 pursuant to subsection (b) or (c) of Section 32-8-34 as a  
21 designated agent.

22 "b. A lienholder who appears on a certificate of  
23 title.

24 "c. Other persons as prescribed by the department.

25 ~~"(22)~~ (23) TRAVEL TRAILER. A vehicle without motive  
26 power, designed and constructed as a camping vehicle or a  
27 temporary dwelling, living, or sleeping place and designed to



1 be drawn or pulled on the highway, but not including folding  
2 or collapsible camping trailers as defined in this section.

3 ~~"(23)~~ (24) USED VEHICLE. A motor vehicle that has  
4 been the subject of a first sale for use, whether within this  
5 state or elsewhere or is being sold by a used motor vehicle  
6 dealer as defined in Section 40-12-390.

7 ~~"(24)~~ (25) UTILITY TRAILER. A vehicle without motive  
8 power designed to be drawn by a passenger car or pickup truck,  
9 including folding or collapsible camping trailers.

10 ~~"(25)~~ (26) VEHICLE IDENTIFICATION NUMBER. The numbers  
11 and letters on a motor vehicle designated by the manufacturer  
12 or assigned by the department for the purpose of identifying  
13 the motor vehicle."

14 "§32-8-3.

15 "(a) The department shall prescribe and provide  
16 suitable forms of applications, certificates of title, notices  
17 of security interests, and all other notices and forms  
18 necessary to carry out the provisions of this chapter.

19 "(b) The department may do any of the following:

20 "(1) Make necessary investigations to procure  
21 information required to carry out the provisions of this  
22 chapter.

23 "(2) Adopt and enforce reasonable rules and  
24 regulations to carry out the provisions of this chapter.

25 "(3) Assign a new identification number to a vehicle  
26 if it has none, or its identification number is destroyed or

1 obliterated, or its motor is changed, and shall issue a new  
2 certificate of title showing the new identification number.

3 "(4) Revoke the authority of a dealer or other  
4 person appointed by the department to act as a designated  
5 agent under this chapter and rules adopted thereunder when it  
6 finds that the dealer or other person has failed to faithfully  
7 perform his or her duties under this chapter or has been  
8 convicted of violating any felony provisions of this chapter  
9 or of Title 40.

10 "(5) Revoke the authority of a title service  
11 provider to act as an agent on behalf of persons described in  
12 subdivision (22) of Section 32-8-2 when it find that the title  
13 service provider has failed to faithfully perform his or her  
14 duties under this chapter and rules adopted thereunder or has  
15 been convicted of violating any felony provisions of this  
16 chapter or of Title 40.

17 "(c) The department, in accordance with applicable  
18 privacy and confidentiality statutes, rules, and regulations,  
19 may make available information concerning the status of a  
20 title on any vehicle as reflected by the records in a manner  
21 prescribed by the department. The department shall charge the  
22 fees set forth in Section 32-8-6; provided, that no fee shall  
23 be charged Alabama law enforcement agencies or law enforcement  
24 agencies of any other state when that state furnishes like or  
25 similar information without charge to the department or to  
26 Alabama law enforcement agencies.

1           "(d) Whenever this chapter provides that a written  
2 certificate or other document is to be filed with the  
3 department, the commissioner may establish procedures for and  
4 accept in lieu of such paper document a filing made by  
5 electronic means. The department may also establish procedures  
6 for the electronic transfer of title and the recording and  
7 release of security interests. Such filing or transfer by  
8 electronic means shall be accepted only if the content of the  
9 filing satisfies all of the requirements of this chapter.

10           "§32-8-34.

11           "(a) Each judge of probate, commissioner of  
12 licenses, director of revenue, or other county official in  
13 this state authorized and required by law to issue motor  
14 vehicle license plates shall by virtue of his or her office be  
15 a designated agent of the department. Judges of probate,  
16 commissioners of licenses, directors of revenue, or other  
17 licensing officials may perform their duties under this  
18 chapter either personally or through any of their deputies.

19           "(b) Every dealer, as defined in this chapter ~~or~~  
20 ~~Chapter 20 of this title,~~ shall be a designated agent of the  
21 department. The dealers ~~may~~ shall perform their duties under  
22 this chapter ~~either~~ personally, ~~or~~ through any of their  
23 officers or employees, or through a title service provider;  
24 provided, that the dealer ~~or persons~~ shall enter into a bond  
25 with a corporate surety authorized to do business in this  
26 state as surety thereon, payable to the State of Alabama in a  
27 sum as provided in Section 40-12-398, conditioned on the

1 faithful performance of their duties under this chapter. No  
2 dealer appointed under this subsection as a designated agent  
3 shall process title applications on behalf of another dealer  
4 unless both dealerships are owned by the same entity.

5 "(c) The department may appoint other persons in  
6 this state as its designated agents. Such agents shall perform  
7 their duties under this chapter either personally, through any  
8 of their officers or employees, or through a title service  
9 provider. An appointee shall enter into a bond as provided in  
10 subsection (b). Full-time bonded employees of the Department  
11 of Revenue may serve as designated agents without additional  
12 bond. A qualified designated agent of the department located  
13 outside of this state may continue as a designated agent of  
14 the department as long as he or she complies with the  
15 requirements of this chapter.

16 "(d) Each title service provider shall enter into a  
17 bond with a corporate surety authorized to do business in this  
18 state as a surety, thereon payable to the state in a sum  
19 provided in Section 40-12-398, conditioned on the faithful  
20 performance of their duties under this chapter."

21 Section 2. This act shall become effective October  
22 1, 2019, following its passage and approval by the Governor,  
23 or upon its otherwise becoming law.