

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1702

Bill Subtitle: TO AMEND THE PROCEDURES RELATED TO THE ISSUANCE OF REGISTRATION AND TITLE TO MOTOR VEHICLES ACQUIRED BY OPERATION OF LAW; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Basic Change : Sponsors: Representative D. Douglas and Senator B Pierce

Under current law, an Arkansas title may be issued for a repossessed vehicle by filing a direct lien at a \$1.00, then executing an Affidavit of Repossession. Fees are the \$10.00 title fee and the \$1.00 fee to transfer the registration. Under these limited requirements, clear Arkansas titles are issued for vehicles registered in other states, to out of state lienholders, who have financed vehicles to out of state residents. These clear Arkansas titles are issued for these vehicles located outside Arkansas with limited knowledge as to the condition of the vehicle, or the circumstances with regard to the owners, lien holders, or motor vehicle dealers in the state where the vehicle is located. The bill amends the Arkansas Code to prohibit the issuance of repossession titles for vehicles last registered out of state unless the applicant provides an out of state title reflecting the lienholder. Exceptions to this new provision are:

1. If an Arkansas auto auction has an agreement to sell repossessed vehicles for an out of state lienholder, and executes an affidavit stating that the vehicle will be sold by an Arkansas auction with whom the lienholder has an agreement;
2. For an out of state vehicle sold to by an Arkansas licensed dealer to an Arkansas resident; and
3. For an out of state vehicle sold by an out of state licensed dealer to an Arkansas resident.

The Office of Motor Vehicle may request information from the auto auction to verify the provision in exception number 1 above.

Revenue Impact :

Possible unknown decrease in title fees to the Arkansas State Police Retirement Fund and the 1995 Revenue Building Fund, depending on whether out of state lienholders are able to comply with the new requirements.

Taxpayer Impact :

No impact on Arkansas taxpayers.

Resources Required :

No additional resources required.

Time Required :

Adequate time is provided.

Procedural Changes :

Revise Motor Vehicle Procedures Manual and distribute revisions to Revenue Office.

Legal Analysis :

HB1702 provides additional procedures related to the issuance of registration and title to motor vehicles acquired by operation of law. HB1702 provides that a certificate of title may not be issued to the new owner using the repossession title process in current law if the motor vehicle to be registered was last registered in a jurisdiction other than Arkansas and the name of the new owner as lienholder is not shown on the existing certificate of title. Under these circumstances, a new owner must obtain a

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new registration and certificate of title through the process provided in current law to obtain a court order directing the new registration and certificate of title. However, an exception is made for a motor vehicle that was last sold by a motor vehicle dealer licensed in Arkansas or another state to an Arkansas purchaser and the Arkansas purchaser failed to register the vehicle in this state. The lienholder of that vehicle may obtain a title upon presenting the last certificate of title, a copy of the instrument creating the lien or encumbrance that reflects the name and address of the Arkansas resident purchaser of the motor vehicle, and instruments or documents of authority sufficient or required by law to evidence or effect a transfer of title or interest in or to the motor vehicle.

Another exception is made for a motor vehicle that is to be sold by an auto auction, provided that the auto auction is located in Arkansas and the auto auction has a written agreement with the repossessing lienholder to sell repossessed motor vehicles at the auto auction. However, this exception shall not apply unless the repossessing lienholder submitted an affidavit along with the application for registration for the motor vehicle, affirming that the motor vehicle would be sold by the auto auction with whom the lienholder has made the agreement.

The term "auto auction" is defined, and authority is granted to the Office of Motor Vehicle to request information verifying the exception.

The effective date of the bill is July 1, 2015.