S T A T E  O F  N E W  Y O R K

8066

2015-2016 Regular Sessions

I N  A S S E M B L Y

June 5, 2015

Introduced by M. of A. CRESPO -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to surety bond requirements for car dealers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraphs a, b and c of subdivision 6-b of section 415 of the vehicle and traffic law, as amended by chapter 7 of the laws of 2000, paragraph a as further amended by section 104 of part A of chapter 62 of the laws of 2011, are amended to read as follows:

a. As a condition to obtaining a registration certificate pursuant to this section, every new motor vehicle dealer applicant and every qualified dealer applicant shall obtain and continue in effect a surety bond in an amount of fifty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition to obtaining a registration certificate pursuant to this section, every dealer applicant [who is applying for a registration certificate in the first instance or who sold two hundred motor vehicles or fewer in the previous calendar year shall obtain and continue in effect a surety bond in an amount of ten thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition of obtaining a registration certificate pursuant to this section, every dealer applicant who sold more than two hundred motor vehicles in the previous calendar year shall obtain and continue in effect a surety bond in an amount of twenty-five thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. The bonds shall be approved as to form by the commissioner and shall be conditioned on the new motor vehicle dealer's, qualified dealer's, and dealer's: payment of all valid bank drafts, including checks, drawn by such

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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dealer for the purchase of motor vehicles; transfer of good title to each motor vehicle such dealer sells; safekeeping of all customer deposits related to the sale of a motor vehicle between the time of receipt of such customer deposit and the transfer of good title to the vehicle to the customer; payment for all fines imposed upon the new motor vehicle dealer, qualified dealer, or dealer by the commissioner pursuant to the provisions of this chapter; and such dealer's repayment of any overcharges of a customer by such dealer for the vehicle registration and titling charges payable to the commissioner for registering and titling the sold vehicle], WHO IS NOT A NEW MOTOR VEHICLE DEALER OR A QUALIFIED MOTOR VEHICLE DEALER, WHO IS APPLYING FOR A NEW REGISTRATION CERTIFICATE SHALL OBTAIN AND CONTINUE IN EFFECT A SURETY BOND IN AN AMOUNT OF (I) TWENTY THOUSAND DOLLARS, FOR SUCH DEALERS WHO SELL FIFTY OR LESS MOTOR VEHICLES A YEAR, AND (II) ONE HUNDRED THOUSAND DOLLARS, FOR SUCH DEALERS WHO SELL MORE THAN FIFTY MOTOR VEHICLES A YEAR EXECUTED BY A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE BY THE DEPARTMENT OF FINANCIAL SERVICES OF THE STATE. ANY SUCH DEALER WHICH IS BONDED PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN WHICH AMENDED THIS PARAGRAPH, SHALL BE REQUIRED TO COMPLY WITH THE AMENDMENTS MADE BY SUCH CHAPTER, ON AND AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN.

b. Recovery against a bond may be made by a person, including the state, who obtains a judgment against the new motor vehicle dealer, qualified dealer, or dealer for [an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond] ANY CLAIM RELATED TO THE BUSINESS OF SUCH NEW MOTOR VEHICLE DEALER, QUALIFIED DEALER OR DEALER, INCLUDING BUT NOT LIMITED TO, CONTRACTUAL VIOLATIONS, FRAUD, UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN VIOLATION OF SECTION THREE HUNDRED FORTY-NINE OF THE GENERAL BUSINESS LAW, ACTS AND OMISSIONS, THE AMOUNT OF THE VALID BANK DRAFTS (INCLUDING CHECKS DRAWN BY THE MOTOR VEHICLE DEALER), QUALIFIED CHECKS DRAWN BY THE NEW MOTOR VEHICLE DEALER, QUALIFIED DEALER OR DEALER FOR THE PURCHASE OF MOTOR VEHICLES OR THE AMOUNT OF OVERCHARGE BY SUCH DEALER FOR REGISTRATION OR TITLE FEES OR THE AMOUNT PAID TO SUCH DEALER OR THE DEPOSIT, AS THE CASE MAY BE, FOR THE MOTOR VEHICLE FOR WHICH GOOD TITLE WAS NOT DELIVERED, AND TITLE CLAIMS, IF THE ACT OR OMISSION OCCURRED DURING THE TERM OF THE BOND. The total liability imposed on the surety under this section for all [breaches of the bond condition] CLAIMS is limited to the face amount of the bond. [Such liability may include, but is not limited to, the amount of the valid bank drafts, including checks, drawn by the new motor vehicle dealer, qualified dealer, or dealer for the purchase of motor vehicles or the amount of overcharge by such dealer for registration or title fees or the amount paid to such dealer or the deposit, as the case may be, for the motor vehicle for which good title was not delivered.] In no event shall the surety on a bond be liable for total claims in excess of the bond amount, regardless of the number or nature of claims made against the bond or the number of years the bond remained in force, nor shall any such surety bond provide coverage for transactions involving sales of any motor vehicles for which a bond is not required pursuant to the provisions of paragraph d of this subdivision.

c. Any surety issuing a bond pursuant to this subdivision shall be required to provide sixty days' notice to the commissioner prior to the effective date of cancellation OR LAPSE of the bond, AND SHALL PROVIDE NOTICE TO THE COMMISSIONER UPON THE DATE OF THE CANCELLATION OR LAPSE OF SUCH BOND. UPON THE CANCELLATION OR LAPSE OF ANY SURETY BOND REQUIRED BY

THIS SUBDIVISION, THE COMMISSIONER SHALL WITHIN FIVE DAYS OF SUCH CANCELLATION OR LAPSE, VERIFY THAT THE DEALER HOLDS A SURETY BOND WHICH MEETS THE REQUIREMENTS OF THIS SUBDIVISION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.