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BILL ANALYSIS

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House Bill 5888 (Substitute H-1 as passed by the House)
Sponsor: Representative Philip J. LaJoy
House Committee: Government Operations
Senate Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 6-30-04

CONTENT

The bill would amend the Motor Vehicle Sales Finance Act to do the following:

- Require the Commissioner of the Office of Financial and Insurance Services to approve or reject an application for a new or renewal license under the Act within 90 days after receiving a complete application.**
- Require the Commissioner to notify the applicant within 30 days after receiving an incomplete application.**
- Require a refund of the license fee if a license were not denied or issued within the 90-day period, and require a discount on the applicant's next renewal application.**
- Require the Commissioner to submit an annual report to the appropriate Senate and House committees regarding compliance with the 90-day time limit.**
- Require the appointment of a statutory agent upon whom process, notice, or demand could be served if the applicant did not have a resident agent and did not maintain an office in the State.**
- Require that certain information be listed on a license application.**

License Issuance

The Act requires a person to have a license in order to engage in the business of a sales finance company or an installment seller of motor vehicles under installment sales contracts. Beginning on the bill's effective date, the Commissioner would have to approve or reject a new or renewal license application within 90 days after receiving a complete application.

If the Commissioner considered an application incomplete, he or she would have to notify the applicant in writing or electronically within 30 days after receiving the incomplete application, describing the deficiency and requesting the additional information, the unpaid fee, or the bond (which must accompany the first application for a sales finance company license). The 90-day time period would be tolled upon notification by the Commissioner of a deficiency until the date he or she received the requested information. The determination of the completeness of an application would not operate as an approval of the license application and would not confer eligibility on an applicant determined otherwise ineligible for issuance of a license. The tolling of the 90-day time period would not allow the Commissioner otherwise to delay the processing of the application, and that application, upon completion, would have to be placed in sequence with other complete applications received at the same time.

If the Commissioner failed to issue or deny a license within the time required, he or she would have to return the license fee and would have to reduce the license fee for the applicant's next renewal application, if any, by 15%. The Commissioner would not be allowed to discriminate against an applicant in the processing of the application based upon the fact that the license fee had been refunded or discounted.

The bill would require the Commissioner, beginning October 1, 2005, to submit a report by December 1 of each year to the standing committees of the Senate and House of Representatives concerned with commerce issues and to the Appropriations subcommittees of the Senate and House of Representatives generally responsible for appropriations to the Office of Financial and Insurance Services. The Commissioner would have to include all of the following information in the report concerning the preceding fiscal year:

- The number of initial and renewal applications the Commissioner received and completed within the 90-day time period that.
- The number of applications denied.
- The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees.

License Application; Appointment of Agent

The bill provides that, if a license applicant did not maintain an office in the State and did not have a resident agent in the State, the application would have to include a written appointment of a statutory agent upon whom process, notice, or demand could be served. The statutory agent would have to be an individual residing in the State or a corporation whose principal place of business was located in the State. Should the identity or address of the statutory agent change while the application was pending or after a license was issued, the applicant or licensee would have to file a written appointment of a new statutory agent or written notice of the new address, as applicable, within three days.

Currently, applications filed by associations or corporations must be accompanied by a power of attorney showing the name and address of the authorized agent in the State upon whom all judicial and other process or legal notice may be served, and in the case of the death, removal from the state or any legal disability or disqualification of the agent, service of process or notice upon the Commissioner must be authorized. The bill would delete this requirement.

The Act describes information that a license application must contain. Under the bill, a "complete" license application would have to contain the same information, as well as an appointment of a statutory agent, if applicable; the bond required for a sales finance company license; and the license fee or fees required.

MCL 492.105 et al.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

According to the Department of Labor and Economic Growth, the amount of revenue generated from the licensing of motor vehicle sales finance companies was \$21,700 in 2003. The amount by which this revenue would be reduced would depend on the number of licensees not processed in the given time frame. The bill also would require a report that would include new or additional information not currently collected. The database adjustment required to accommodate this requirement could increase information technology costs.

Fiscal Analyst: Maria Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.