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CHAMBER ACTION
Senate   House
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1   Comm: 20/RCS   .
     04/19/2007 06:44 PM   .
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11   The Committee on Finance and Tax (Haridopolos) recommended the

12   following amendment:

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14   **Senate Amendment (with title amendment)**

15   On page 59, line 6, through

16   page 66, line 10, delete those lines

17

18   and insert:

19   (4) CASH DEPOSIT, SURETY BOND, OR IRREVOCABLE LETTERS

20   OF CREDIT.--In order to collect the taxes, fees, and

21   surcharges administered by the department and to ensure

22   compliance with the revenue laws of this state, the

23   department, in its sole discretion, may require a taxpayer to

24   provide security as a condition to the taxpayer obtaining,

25   renewing, or retaining any dealer's certificate of

26   registration, permit, or license with the department as

27   provided in this subsection. The authority granted by this

28   subsection is in addition to other authority granted to the

29   executive director and the department by law.

30   (a) As used in this subsection, the term:

31   1. "Department" means the executive director of the

1

1 Department of Revenue or the executive director's designee.

2   2. "Security" means any cash deposit, surety bonds, or

3 irrevocable letters of credit. Surety bonds must be issued by

4 a surety company authorized to transact business in this state

5 as a surety. Irrevocable letters of credit must be issued by a

6 bank authorized to do business in this state as a bank and

7 shall be engaged as an agreement to honor demands for payment

8 as specified in this subsection.

9   3. "Taxpayer" means any person, as defined by s.

10 212.02 and, solely for the purposes of determining whether

11 security is required under this subsection and the amount of

12 any such security required, the term also includes any related

13 person.

14   (b)1. In determining whether security will be required

15 and the amount of the security, the department shall consider:

16   a. The taxpayer's compliance with state and federal

17 laws;

18   b. The taxpayer's compliance with state and federal

19 revenue laws;

20   c. The taxpayer's financial status and ability to pay;

21 and

22   d. Any other facts and circumstances affecting

23 compliance with the revenue laws of this state.

24   2. The security shall be in the amount required by the

25 department. The amount of security required by the department

26 may not exceed a taxpayer's estimated liability, as determined

27 by the department, for all taxes, fees, and surcharges,

28 including penalties and interest, administered by the

29 department for 12 consecutive months, plus any unpaid

30 delinquencies of the taxpayer.

31   3. If the department determines that security is

1 required, it shall provide written notice of such

2 determination to the taxpayer at the taxpayer's last known

3 address as it appears in the department's records. The

4 taxpayer must post the required security or send a written

5 objection to the department within 30 days after the date on

6 the department's notice, failing which the department shall

7 refuse the issuance or renewal of any dealer's certificate of

8 registration, permit, or license with the department, or

9 initiate revocation proceedings to revoke any existing

10 registrations, permits, or licenses.

11   4. If the department determines that the amount of any

12 existing security is insufficient to ensure payment of the

13 amount of the taxes, fees, and surcharges, including penalties

14 and interest, for which the taxpayer is or may at any time

15 become liable, or if the amount of the security is reduced or

16 released, whether by judgment rendered or by use of the

17 security to pay the delinquent taxes, penalty, or interest,

18 the department shall provide written notification to the

19 taxpayer of the revised amount of security required. The

20 taxpayer shall file additional security in the amount required

21 or provide a written objection within 30 days, failing which

22 the department shall refuse the issuance or renewal of any

23 taxpayer's certificate of registration, permit, or license

24 with the department, or initiate revocation proceedings to

25 revoke any existing registrations, permits, or licenses. If a

26 new security is furnished, the department shall cancel,

27 surrender, or discharge the previous security as appropriate,

28 for which such new security is substituted.

29   5. When a taxpayer that has provided security is

30 delinquent more than 30 days in the payment of any tax, fee,

31 or surcharge administered by the department, the department

1 may, upon 10 days' written notice provided to the last known

2 address of the taxpayer as it appears in the department's

3 records, apply the security in whole or in part to the amount

4 that the taxpayer should have collected and remitted or paid.

5   6. The duration of any security required under this

6 subsection may not be less than 12 months. If a taxpayer files

7 all returns and pays all tax to the state within the time

8 required by law for a period of 12 consecutive months, the

9 department shall, upon written request by the taxpayer,

10 release or refund the security. If the taxpayer ceases

11 operations during the time the security is being held by the

12 department, the taxpayer must submit a written request to the

13 department within 90 days after ceasing operations for the

14 return of the deposit or release of the surety bond or letter

15 of credit. The department shall offset any reimbursement of

16 security under this subsection against any outstanding

17 liability of the taxpayer.

18   (c) Any taxpayer failing to post security as provided

19 in this subsection is not entitled to obtain, renew, or retain

20 any certificate of registration, permit, or license issued by

21 the department. At the request of the department, the

22 Department of Legal Affairs may proceed by injunction to

23 prevent any activity in the performance of further business

24 activity subject to registration, permitting, or licensing by

25 the department until such security is posted with the

26 department. A temporary injunction for this purpose may be

27 granted by any judge or chancellor authorized by law to grant

28 injunctions.

29   (d) Any security required under this subsection may be

30 sold by the department to recover any taxes, fees, or

31 surcharges due, including penalties and interest. Notice of

1 such sale may be served personally or by mail upon the

2 taxpayer who deposited such security. If by mail, notice sent

3 to the last known address as the same appears on the records

4 of the department is sufficient for the purpose of this

5 requirement. Upon such sale, the surplus, if any, above the

6 amount due under this chapter shall be returned to the

7 taxpayer who deposited the security.

8   (5) GARNISHMENT.--Garnishment shall be conducted for

9 all taxes administered by the department under s. 213.67.

10   (6) TRANSFER OF LIABILITY.--The liability for any tax,

11 fee, or surcharge, including penalties and interest, may be

12 transferred to responsible corporate officers as provided in

13 s. 213.29.

14   (7) JEOPARDY ASSESSMENTS.--If there is jeopardy to the

15 revenue and jeopardy is asserted in or with an assessment, the

16 department shall proceed in the manner specified for jeopardy

17 assessments in s. 213.732.

18   (8) RULES.--The department may adopt rules pursuant to

19 ss. 120.536(1) and 120.54 to administer this section.

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22 ================ T I T L E   A M E N D M E N T ===============

23 And the title is amended as follows:

24   On page 4, lines 6-14, delete those lines

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26 and insert:

27   registration, permit, or license;

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