

NOTICE OF PROPOSED RULE

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

RULE NO: RULE TITLE

15C-18.001 Electronic Filing System

15C-18.002 Electronic Filing System Features

15C-18.003 Tax Collector Responsibilities

15C-18.004 EFS Agent Participation Requirements

15C-18.005 Service Providers; Certification; Requirements

15C-18.006 Electronic Filing System Requirements; Disclosure to Customer

15C-18.007 Enforcement; Service Providers; EFS Agents; Tax Collectors

PURPOSE AND EFFECT: To administer and establish operating requirements for the electronic filing system and for the users of the Department's electronic filing system, including but not limited to: establishing participation requirements; certification of service providers; electronic filing system requirements; and enforcement authority for noncompliance.

SUMMARY: The electronic filing system allows authorized users to conduct title and registration transactions for their customers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 320.03(10), F.S.

LAW IMPLEMENTED: 320.03(10), F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julie Baker, Assistant Bureau Chief, 2900 Apalachee Parkway, MS-70, Tallahassee, Florida 32399; juliebaker@flhsmv.gov.

THE FULL TEXT OF THE PROPOSED RULE

15C-18.001 Electronic Filing System

(1) Purpose and Scope. This rule prescribes and defines the Department of Highway Safety and Motor Vehicles' Electronic Filing System and the participation requirements, certification of service providers, system requirements and enforcement authority for noncompliance.

(2) Definitions. The words or terms as used in this rule shall have the following meanings:

(a) "Certified Service Provider" means a Department approved provider of electronic registration and titling or other motor vehicle, vessel, mobile home, or off-highway vehicle transactions allowed under the Electronic Filing System. The Certified Service Provider hosts an approved system for interface between EFS agents and the Department.

(b) "Department" means the Department of Highway Safety and Motor Vehicles.

(c) "Electronic Filing System" means the system owned by and under the jurisdiction of and regulated by the Department which allows authorized EFS agents to process title and registration transactions.

(d) "Electronic Filing System (EFS) agent" means an entity authorized by the Department to process title and registration transactions using the Electronic Filing System as defined in s. 320.03(10), F.S.

(e) "Indicia" means any document, validation decal, paper stock or metal license plate necessary in titling and registration transactions.

(f) "Inquiry" means accessing the Department's database for information that does not result in the issuance of a title certificate or registration credential.

(g) "Motor Vehicle" includes, for the purposes of this rule only, motor vehicles, vessels, mobile homes or off-highway vehicles.

(h) "Tax Collector" means one of the 64 state constitution or 3 charter appointed tax collectors in the 67 counties of Florida who serve as agents of the Department for the delivery of title and registration services.

(i) "Sales Agreement" means the document that buyer and seller sign memorializing the terms of the sale and includes, but is not limited to a buyer's order and a bill of sale.

(3) The Department and all Tax Collectors must allow any entity who meets the requirements set forth in this rule to participate as an EFS agent. Neither the Department nor a Tax Collector may deny an eligible EFS agent from participating. The Department, Tax Collectors, EFS agents, and Certified Service Providers shall comply with the provisions of these rules and may not add additional requirements not set forth in either the statute or these rules.

Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History—New

15C-18.002 Electronic Filing System Features

(1) The Electronic Filing System allows an authorized EFS agent to process title and registration transactions for products they sell including, but not limited to:

- (a) New and used motor vehicles.
- (b) Direct and lease purchases.
- (c) License plates transferred from one motor vehicle to another.
- (d) Registration renewal for customers at the time of purchase.
- (e) Inquiry capabilities subject to applicable fees as set forth in s. 320.05(3)(e), F.S.

Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History–New.

15C-18.003 Tax Collector Responsibilities

(1) Tax Collectors are responsible for:

- (a) Appointing EFS agents in their county after the Department notifies said Tax Collector that the entity is authorized.
- (b) Referring any requests to become an authorized EFS agent to the Department.
- (c) Reviewing supporting documentation from EFS transactions processed in the county. The Tax Collector shall ensure all transactions and corrections are processed in accordance with law and Department procedure.
- (d) Receiving funds collected electronically from EFS transactions from the Certified Service Provider and remitting State funds in accordance with law and Department procedure.
- (e) Distribution of indicia to authorized EFS agents. The Tax Collector’s responsibility is limited to distribution of indicia pursuant to Department procedure.

Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History–New.

15C-18.004 EFS Agent Participation Requirements

(1) Entities requesting authorization to become an EFS agent must meet the following requirements:

- (a) Sell products that must be titled or registered.
- (b) Provide title and registration services on behalf of its consumers.
- (c) Enter into a contract with a Certified Service Provider.
- (d) Apply to the Department on a form prescribed by the Department.
- (e) Have no unresolved issues regarding non-sufficient funds received by either the Department or Tax Collector.
- (f) Have no convictions of a felony involving fraudulent crimes related to motor vehicles including, but not limited to, identity

fraud, embezzlement or other related economic crimes by the principals or prospective users within the last five years. If there were any felony convictions against any principal or prospective user beyond the five years, they must have had their civil rights restored and provide proof of this prior to being authorized to access the system. This does not include any felony convictions involving the actual operation of a motor vehicle. The EFS agent must provide verification to the Certified Service Provider that background checks are performed on all principals or prospective users and meet the requirements set forth in this rule prior to the Certified Service Provider allowing access to the system and registering authorized users.

(g) Must be current on all applicable tax payments.

(h) Must be current on all State and or local licenses.

(i) Prior disciplinary actions by the Department may be used as a determining factor in denial of an entity as an EFS agent.

(2) EFS agents may only stock regular series license plates and registration decals unless they receive specific authority from the Department to stock additional indicia types.

(a) The EFS agent must ensure that all indicia is secured in a locked area during non-business hours. Indicia not being used shall also be secured in a locked area.

(b) Only those users authorized by the Certified Service Provider shall have access to indicia.

(3) Upon authorization from the Department the Tax Collector shall appoint an entity as an authorized electronic filing system agent for that county.

Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History–New

15C-18.005 Service Providers; Certification; Requirements

(1) The Department shall certify Service Providers who meet minimum requirements as set forth in this rule.

(2) Entities requesting approval to become a Certified Service Provider must meet the following requirements prior to being approved by Department:

(a) Enter into a contract with the Department.

(b) Pass a structured test with the Department.

(c) Provide a performance bond for \$2 million with the Department.

(3) The Certified Service Provider shall:

(a) Provide support, assistance and training to any EFS agents using their system.

(b) Follow installation procedures as set forth by the Department.

(c) Maintain all records of electronic fund transfers, inventories and files of transactions for a period of three fiscal years.

- (d) Maintain all contractual agreements for a period of five fiscal years after completion or termination of the contract.
- (e) Make all records available for inspection or audit at any time during normal business hours by the Department.
- (f) Ensure all EFS agent principals or prospective users have had background checks and maintain lists of authorized users.
- (g) Transfer all funds collected in connection with the processing of all registration and title transactions and other approved services via Electronic Funds Transfer to the applicable Tax Collector office within two business days of the date the transaction is electronically submitted to the Tax Collector's office.
- (h) Provide at its own expense all equipment necessary to provide an interface between the Certified Service Provider's server and the Department's server.

Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History—New.

15C-18.006 Electronic Filing System Requirements; Disclosure to Customer

(1) Certified Service Providers must provide reports as set forth below. The Electronic Filing System developed by a Certified Service Provider must at a minimum include the following reporting capabilities:

- (a) Bundle reporting which includes all completed transactions from the prior business day and includes the following data: transaction ID number, owner name, number of license plate, expiration date, title number, agency fees, system control number, customer number, stock number, sales tax revenue, registration tax, title fees, total registration tax and title fees and total funds remitted.
- (b) An inventory report reflecting inventory on hand, unassigned, available, issued, transmitted, damaged, missing, returned, or reserved. Such report shall include series of inventory with beginning and ending numbers.
- (c) A pull ticket report which includes a control number, new owner of vehicle or vessel being purchased, VIN or hull number, make and body or vessel type. If the license plate is being transferred, the plate number shall be included.
- (d) Registration certificate.
- (e) Title application receipt.
- (f) Provide an approved HSMV 84003 with a list of license plates that have been voided, along with a reason for the void.
- (g) Provide a report for each county, by authorized EFS agent, listing all current users.

- (h) Provide a list to the Department of all authorized users of the Electronic Filing System.
- (2) The system must provide a report of all completed transactions for the previous date.
- (3) Certified Service Providers must ensure that access and data are secure. The EFS agent must ensure that access and data are only used by authorized persons.
- (4) An EFS agent that desires to change its Certified Service Provider shall submit the request to the Department on a form prescribed by the Department.
- (5) If an EFS agent charges a fee to the customer for use of the electronic filing system in a title or registration transaction, the fee shall be disclosed separately and conspicuously in the sales agreement as an optional fee. The EFS agent may not disclose or disguise this as a State or Government fee.

Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History—New

15C-18.007 Enforcement; Service Providers; EFS Agents; Tax Collectors

(1) Enforcement authority for compliance with the requirements of the electronic filing system with regard to Certified Service Providers is granted to the Department. The Department shall have the authority to terminate any contract or agreement with any Certified Service Provider for any violation of the statute, the rules, or the terms of the contract. Additionally, the following are prohibited and may result in the termination of certification as a service provider:

- (a) Providing Electronic Filing System services to a client who is not an authorized EFS agent.
- (b) Distributing indicia to a client who is not an authorized EFS agent.
- (c) Willful misrepresentation of EFS policies, procedures, contractual terms or other title and registration policies or procedures.
- (d) Using Department information for reasons other than authorized Electronic Filing System services.
- (e) Failure to correct errors as required by the Department.
- (f) Failure to execute electronic funds transfer in the specified time frame.

(2) Enforcement authority for compliance and the requirements of the electronic filing system with regard to EFS agents is granted to the Department. The Department shall have the authority to revoke an EFS agent's ability to use the electronic filing system for any violation of the statute, the rules or the terms of the contract. This rule shall not prevent the Department from imposing any additional sanctions or fines as allowed by other applicable laws or rules including, but not limited to s. 320.27, F.S. Additionally, the following are prohibited:

- (a) Failure to comply with Department procedures.

(b) Unauthorized access of data by users.

(c) Failure to pay applicable Department records fees for information not resulting in the issuance of a title certification or registration credential.

(d) Failure to comply with minimum security requirements, including failure to safeguard equipment which provides access to the Electronic Filing System.

(e) Failure to execute electronic funds transfer.

(f) Failure to remain in good standing with the Tax Collector or State, including lapse or revocation of any state or local license.

(g) Failure to correct errors or clear pending transactions as required by the Department.

(h) Charging title and registration fees in excess of those allowed by law.

(i) Improper security and control of license plate and decal inventory or other Tax Collector provided indicia.

(3) Enforcement authority for non-compliance with rule 15C-18.003 is granted to the Department and may result in the Department or its authorized representative handling EFS services for that county.

Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History–New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Boyd Walden, Chief, Bureau of Titles and Registrations, Division of Motor Vehicles, 2900 Apalachee Parkway, MS-68, Tallahassee, Florida 32399-0500.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Lee Ann Korst, Deputy Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010