

the tax assessor-collector. The full service deputy retains the entire fee charged to the customer.

(2) A dealer deputy may charge the customer a fee of up to \$15, as determined by the dealer deputy and approved by the tax assessor-collector. The dealer deputy retains the entire fee charged to the customer. This section does not preclude a dealer deputy from charging a documentary fee authorized by Finance Code, §348.006.

(c) Registration and registration renewals. For each registration transaction processed:

(1) A full service deputy may:

(A) retain \$1 from the processing and handling fee established by §217.183 of this title (relating to Fee Amount); and

(B) charge a convenience fee of \$4, except as limited by §217.184 of this title (relating to Exclusions).

(2) A limited service deputy may retain \$1 from the processing and handling fee established by §217.183.

(3) A dealer deputy may retain \$1 from the processing and handling fee established by §217.183. This section does not preclude a dealer deputy from charging a documentary fee authorized by Finance Code, §348.006.

(d) Temporary permit transactions under Transportation Code, §502.094 or §502.095. For each temporary permit transaction processed by a full service deputy, the full service deputy may retain the entire processing and handling fee established by §217.183.

(e) Full service deputy convenience fee. The convenience fee authorized by this section is collected by the full service deputy directly from the customer and is in addition to the processing and handling fee established by §217.183. A full service deputy may not charge any additional fee for a registration or registration renewal transaction.

(f) Related transactions by a full service deputy. The limitations of subsections (b), (c), (d), and (e) of this section do not apply to other services that a full service deputy may perform that are related to titles or registrations, but are not transactions that must be performed through the department's automated vehicle registration and title system. Services that are not transactions performed through the department's automated vehicle registration and title system include, but are not limited to, the additional fees a full service deputy may charge for copying, faxing, or transporting documents required to obtain or correct a motor vehicle title or registration. However, the additional fees that a full service deputy may charge for these other services may be limited by the terms of the county tax assessor-collector's authorization to act as deputy.

(g) Posting of fees. At each location where a full service deputy provides titling or registration services, the deputy must prominently post a list stating all fees charged for each service related to titling or registration. The fee list must specifically state each service, including the additional fee charged for that service, that is subject to subsections (b), (c), (d), or (e) of this section. The fee list must also state that each service subject to an additional fee under subsection (b), (c), (d), or (e) of this section may be obtained from the county tax assessor-collector without the additional fee. If the full service deputy maintains a website advertising or offering titling or registration services, the deputy must post the fee list described by this subsection on the website.

(h) Additional compensation. The fee amounts set forth in this section do not preclude or limit the ability of a county to provide additional compensation to a deputy out of county funds.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 8, 2016.

TRD-201601658

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: May 22, 2016

For further information, please call: (512) 465-5665



## SUBCHAPTER J. PERFORMANCE QUALITY RECOGNITION PROGRAM

### 43 TAC §§217.201 - 217.207

The Texas Department of Motor Vehicles (department) proposes new Subchapter J, Performance Quality Recognition Program: §217.201, Purpose and Scope; §217.202, Definitions; §217.203, Recognition Criteria; §217.204, Applications; §217.205, Department Decision to Award, Deny, Revoke, or Demote a Recognition Level; §217.206, Term of Recognition Level; and §217.207, Review Process.

#### EXPLANATION OF PROPOSED NEW SUBCHAPTER

Transportation Code, §520.004 requires the department to establish standards for uniformity and service quality for county tax assessor-collectors regarding vehicle titles and registration. The proposed new Subchapter J prescribes the procedures and general criteria the department will use to establish and administer a voluntary program called the Performance Quality Recognition Program (Recognition Program).

The department will use the Recognition Program to recognize county tax assessor-collectors and their offices for outstanding performance and efficiency in processing title and registration transactions. The recognition criteria contain the standards for uniformity and service quality, such as processing transactions in a timely fashion and consistently applying statutes, rules, and policies governing motor vehicle transactions.

Proposed new §217.203, Recognition Criteria, states the department will establish criteria for multiple levels of recognition for performance. Proposed new §217.206, Term of Recognition Level, establishes the length or term for a recognition level, including triggers that will cause the recognition level to terminate or expire.

#### FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the new subchapter as proposed is in effect, there will be no major fiscal implications for state or local governments as a result of administering the proposed new subchapter. To the extent the administration of the proposed new subchapter causes county tax assessor-collectors to timely remit registration fee collections, motor sales tax, and penalties to the state, there may be a minor positive fiscal impact for the state; however, the deadlines for these remittances are provided by statute, rather than the proposed new subchapter. Since the program is voluntary, the proposed new Subchapter J will not cause a negative fiscal impact to the counties.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that there will be no impact on local economies or overall employment as a result of enforcing or administering the new subchapter.

#### PUBLIC BENEFIT AND COST

Mr. Kuntz has also determined that for each year of the first five years the proposed new subchapter is in effect, the public benefit anticipated as a result of enforcing or administering the subchapter will be the uniformity and quality of service provided by county tax assessor-collectors in processing title and registration transactions. There are no anticipated economic costs for persons required to comply with the subchapter as proposed.

#### SMALL AND MICRO-BUSINESS IMPACT ASSESSMENT

Pursuant to Government Code, Chapter 2006, the department does not anticipate any adverse economic effect on small businesses or micro-businesses due to the adoption of the new subchapter.

#### TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

#### SUBMITTAL OF COMMENTS

Written comments on the proposed new subchapter may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Building 1, Austin, Texas 78731 or by email to [rules@txdmv.gov](mailto:rules@txdmv.gov). The deadline for receipt of comments is 5:00 p.m. on May 23, 2016.

#### STATUTORY AUTHORITY

The new subchapter is proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; Transportation Code, §520.003, which states the department may adopt rules to administer Chapter 520, Miscellaneous Provisions; and more specifically, Transportation Code, §520.004, which states the department by rule shall establish standards for uniformity and service quality for counties.

#### CROSS REFERENCE TO STATUTE

Transportation Code, §520.004.

##### §217.201. Purpose and Scope.

Transportation Code, §520.004, requires the department to establish standards for uniformity and service quality for counties. This subchapter prescribes the procedures and general criteria the department will use to establish and administer a voluntary program called the Performance Quality Recognition Program. The department will use the Performance Quality Recognition Program to recognize county tax assessor-collectors and their offices for outstanding performance and efficiency in processing title and registration transactions.

##### §217.202. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Department--The Texas Department of Motor Vehicles.

(2) Deputy--A person appointed to serve in an official government capacity to perform, under the provisions of Subchapter H of this chapter, designated motor vehicle titling, registration, and registration renewal services as a deputy assessor-collector. The term "deputy" does not include an employee of a county tax assessor-collector.

(3) Office--The county tax assessor-collector office(s) for each county, including the office(s) of any deputy.

##### §217.203. Recognition Criteria.

(a) Levels of recognition. The department will establish criteria for multiple levels of recognition for performance.

(b) Recognition criteria for minimum recognition level. The recognition criteria shall include, but are not limited to, factors that indicate whether the office:

- (1) timely remits registration fee collections;
- (2) timely remits motor vehicle sales tax and penalties;
- (3) consistently applies statutes, rules, and policies governing motor vehicle transactions; and
- (4) maintains bonds as required by statute or administrative rule.

(c) Recognition criteria for a higher recognition level. The recognition criteria shall include, but are not limited to, factors that indicate whether the office:

- (1) performs efficiently and with low error rates;
- (2) processes transactions in a timely fashion;
- (3) has customer feedback programs; and
- (4) has fraud, waste, and abuse awareness and prevention programs.

(d) Possible additional criteria for a higher recognition level. In addition to the recognition criteria listed in subsection (c) of this section, the department may include recognition criteria, such as the following, that indicate whether the office:

- (1) implements cost-saving measures; and
- (2) has customer feedback metrics to measure customer satisfaction.

(e) Posting recognition criteria. The department shall post the recognition criteria on its website.

##### §217.204. Applications.

(a) Application deadline. If a county tax assessor-collector chooses to apply for a recognition level or to apply for a higher level of recognition under the Performance Quality Recognition Program, the county tax assessor-collector must submit an application to the department during any year of the county tax assessor-collector's term of office. The application must be received by the department or post-marked no later than October 31st.

(b) Application from a successor county tax assessor-collector. A successor county tax assessor-collector is not eligible for a recognition level until after serving as the county tax assessor-collector during an entire state fiscal year, which is September 1st through August 31st.

(c) Application for a higher level of recognition.

(1) If a county tax assessor-collector obtains a recognition level and chooses to apply for a higher level of recognition during the term of the existing recognition level, the county tax assessor-collector is not eligible to apply for a higher level until after serving as the county

tax assessor-collector during an entire state fiscal year subsequent to the state fiscal year for which the existing recognition level was awarded.

(2) If the department demotes a county tax assessor-collector's recognition level, the county tax assessor-collector is not eligible to apply for a higher level of recognition until after serving as the county tax assessor-collector during an entire state fiscal year subsequent to the state fiscal year during which the existing recognition level was demoted.

(d) Application for a recognition level after revocation of recognition level. If the department revokes a county tax assessor-collector's recognition level, the county tax assessor-collector is not eligible to apply for a recognition level during the remainder of the county tax assessor-collector's term of office during which the revocation occurred.

(e) Application form. The application must be submitted on a form prescribed by the department.

(f) Signature on application. The county tax assessor-collector must sign the application.

(g) Additional information, documentation, or clarification. At the department's discretion, the department may request additional information, documentation, or clarification from the county tax assessor-collector after the department receives an application. The department shall provide the county tax assessor-collector with a deadline to respond to the request.

§217.205. Department Decision to Award, Deny, Revoke, or Demote a Recognition Level.

(a) Award of recognition level. The department may award a recognition level based on the following for the time frame of September 1st through August 31st immediately preceding the application deadline:

(1) information and documents contained in the application;

(2) any additional information, documentation, or clarification requested by the department; and

(3) information and documentation from department records.

(b) Denial of recognition level. The department may deny an award of recognition if:

(1) the application contains any incomplete or inaccurate information;

(2) the applicant fails to provide requested documents;

(3) the application contains incomplete documents;

(4) the application was not received by the department or postmarked by the department's deadline;

(5) the county tax assessor-collector who applied for recognition no longer holds the office of county tax assessor-collector;

(6) the county tax assessor-collector did not sign the application; or

(7) the department discovers information which shows the applicant does not comply with the criteria to receive a recognition level.

(c) Revocation of recognition level or demotion of recognition level. The department may revoke a recognition level or demote a recognition level if the department discovers information which shows

the applicant no longer complies with the criteria for the recognition level.

(d) Notice of department decision to award, deny, demote, or revoke a recognition level. The department shall notify the county tax assessor-collector of the department's decision via email, facsimile transmission, or regular mail.

(e) Deadline for department decision to award or to deny a recognition level. No later than 90 calendar days after receiving the application for recognition, the department shall send a written notice to the applicant stating:

(1) the department's decision to award or to deny a recognition level; or

(2) there will be a delay in the department's decision.

§217.206. Term of Recognition Level.

(a) Expiration of recognition level. Except as provided in subsections (b), (c), (d), and (e) of this section, the recognition level expires on the later of the end of the county tax assessor-collector's term of office during which the recognition was awarded or the one-year anniversary of the start of their re-election term of office.

(b) Demoted recognition level. If a recognition level is demoted during the term of a recognition level, the demoted recognition level expires on the later of the end of the county tax assessor-collector's term of office during which the recognition level was demoted or the one-year anniversary of the start of their re-election term of office, except as provided in subsections (c), (d), and (e) of this section.

(c) Revoked recognition level. A recognition level that is revoked will terminate on the effective date of the revocation.

(d) Decision on application for a higher level of recognition. If a county tax assessor-collector chooses to apply for a higher level of recognition, the existing recognition level terminates once the department makes a decision on the application for a higher level of recognition.

(e) County tax assessor-collector no longer holds office. The recognition level awarded to a county tax assessor-collector expires when the county tax assessor-collector no longer holds the office of county tax assessor-collector.

§217.207. Review Process.

(a) Request for review. A county tax assessor-collector may request the department to review its decision by submitting a written request for review as prescribed by the department:

(1) if an application for recognition is denied;

(2) if the county tax assessor-collector is not satisfied with the awarded level of recognition; or

(3) if a level of recognition is revoked or demoted.

(b) Deadline for request for review. The written request for review must be received by the department or postmarked no later than 90 calendar days after the date listed in the department's notice to the county tax assessor-collector of the department's decision for which review is requested.

(c) County tax assessor-collector's request for review. The department will not consider a request for review submitted by someone other than the county tax assessor-collector who signed the application for recognition or who obtained the recognition level at issue. The request must:

(1) specifically identify the basis for the county tax assessor-collector's disagreement with the department's decision; and

(2) include any evidence or legal authority that supports the request for review.

(d) Deadline for department decision on request for review. The department shall make a decision on the written request for review no later than 90 calendar days after receiving the written request for review.

(e) Notice of department decision on request for review. The department shall notify the county tax assessor-collector of the department's decision via email, facsimile transmission, or regular mail.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 8, 2016.

TRD-201601659

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: May 22, 2016

For further information, please call: (512) 465-5665

◆ ◆ ◆