

By: Marchant

H.B. No. 3417

Substitute the following for H.B. No. 3417:

By: Harper-Brown

C.S.H.B. No. 3417

A BILL TO BE ENTITLED

AN ACT

1
2 relating to use of power of attorney in certain motor vehicle title
3 transfers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter D, Chapter 501, Transportation Code,
6 is amended by adding Section 501.076 to read as follows:

7 Sec. 501.076. POWER OF ATTORNEY. (a) An owner who has a
8 contractual option to transfer ownership of a vehicle in full or
9 partial satisfaction of the balance owed on the vehicle, as
10 provided by Section 348.123(b)(5), Finance Code, may execute a
11 written power of attorney that authorizes an agent to complete and
12 sign for the owner, and provide to the transferee, the form to
13 transfer the title under Section 501.071, the odometer disclosure
14 under Section 501.072, and the other documents necessary to
15 transfer title.

16 (b) The owner may execute the power of attorney when the
17 owner enters into the contract giving the owner the option to
18 transfer the vehicle or at a later time. The power of attorney may
19 be used only if an owner transfers the vehicle in full or partial
20 satisfaction of the contract and may not be used by the holder of
21 the contract as part of the holder's exercise of a remedy for a
22 default by the owner under the contract.

23 (c) The person named as the agent in the power of attorney:

24 (1) must be:

1 (A) a person appointed by the commissioners court
2 of a county as a deputy to perform vehicle registration functions
3 under Section 502.112;

4 (B) a licensed vehicle auction company holding a
5 wholesale general distinguishing number under Section 503.022 or a
6 person who has a similar permit that is issued by the state in which
7 the owner is located; or

8 (C) another person authorized by law to execute
9 title documents in the state in which the owner executes the
10 documents;

11 (2) may not be the transferee or an employee of the
12 transferee; and

13 (3) may not act as the agent of both the transferor and
14 transferee in the transaction, except that, for the purposes of
15 this section, a person is not the agent of both the transferor and
16 transferee in a transaction unless the person has the authority to
17 sign the documents pertaining to the transfer of title on behalf of
18 both the transferor and the transferee.

19 (d) If a power of attorney is used under Subsection (a), the
20 holder of the contract shall accompany the power of attorney with a
21 written statement that the vehicle was returned at the election of
22 the owner in full or partial satisfaction of the owner's
23 obligations under the contract and not as the result of the exercise
24 by the holder of the contract of its remedies for default.

25 (e) A written odometer statement may be included on or with
26 the power of attorney or may be provided at a later date. If a
27 written odometer statement is not provided, the agent may rely on

1 physical inspection of the odometer or other reasonable measures to
2 determine the vehicle mileage and complete the odometer disclosure
3 for the transfer and may also, at least 20 days before the transfer
4 of title, mail to the owner, at the owner's address on the title or
5 the last known address known to the holder of the contract,
6 notification that the owner is required by law to inform the agent,
7 at an address specified in the notice, before the expiration of the
8 notice period if the owner knows that the odometer does not reflect
9 the actual mileage of the vehicle. This notification must be in
10 bold letters, underlined or otherwise conspicuous, and may be a
11 separate statement or included in documents with other information
12 relating to the potential transfer. If the owner knows that the
13 odometer does not reflect the actual mileage of the vehicle, the
14 owner shall inform the agent of that fact within the stated notice
15 period.

16 (f) This section does not apply to a power of attorney
17 authorized under federal statute or regulation that authorizes a
18 transferee to act as the agent of the transferor under certain
19 circumstances, or to a power of attorney otherwise authorized by
20 the law of this state. This section does not affect the use of a
21 power of attorney to sign, complete, and deliver the form to
22 transfer title and other documents necessary to transfer title,
23 including the odometer disclosure, in title transfers other than
24 those described by Subsection (a).

25 SECTION 2. The change in law made by this Act applies only
26 to a transfer by power of attorney made on or after the effective
27 date of this Act. A transfer by power of attorney made before the

1 effective date of this Act is governed by the law in effect when the
2 transfer by power of attorney was made, and the former law is
3 continued in effect for that purpose.

4 SECTION 3. This Act takes effect September 1, 2003.