

By: Marchant

H.B. No. 3417

A BILL TO BE ENTITLED

AN ACT

relating to the use of power of attorney in certain motor vehicle title transfers.

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

SECTION 1. Section 501.076, Texas Transportation Code, is enacted, to read as follows:

Section 501.076. Power of Attorney.

(a) An owner who has a contractual option to transfer ownership of a vehicle in full or partial satisfaction of the balance owed on the vehicle, as provided in section 348.123(b)(5) of the Texas Finance Code, may execute a written power of attorney that authorizes an agent to complete and sign for the owner, and provide to the transferee, the form to transfer the title under section 501.071 and the odometer disclosure under section 501.072 of the Transportation Code, and the other documents necessary to transfer title.

(b) The owner may execute the power of attorney at the time the owner enters the contract giving the owner the option to transfer the vehicle, or at any time after that date. The power of attorney may only be used if an owner elects to transfer the vehicle in full or partial satisfaction of the contract, and may not be used by the holder of the contract as part of the holder's exercise of a remedy for a default by the owner under the contract.

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

1 must meet the following requirements:

2 (1) the person may be a person who has been appointed
3 by the Commissioner's Court as a deputy to perform vehicle
4 registration functions under Texas Transportation Code Sec.
5 502.112, a licensed vehicle auction company holding a wholesale
6 General Distinguishing Number under Texas Transportation Code Sec.
7 503.022, a person who has a permit similar to one of the foregoing
8 that is issued by the state in which the owner is located, or
9 another person authorized by law to execute title documents in the
10 state in which the owner executes the documents; and

11 (2) the person may not be the transferee, or an
12 employee of the transferee. The person may not act as the agent of
13 both the transferor and transferee in the transaction. For the
14 purposes of this section, a person is not the agent of both the
15 transferor and transferee in a transaction unless the person has
16 the authority to sign the documents pertaining to the transfer of
17 title on behalf of both the transferor and the transferee.

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

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

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

16 (f) This section does not in any way impair or impede any
17 transfers made through use of a power of attorney prior to the
18 effective date of this section, and such transfers shall continue
19 to be valid if they comply with the provisions of this section or
20 would otherwise comply with the law in effect prior to the effective
21 date of this section. This section does not apply to powers of
22 attorney authorized under federal law or regulation that authorize
23 a transferee to act as the agent of the transferor under certain
24 circumstances, or to powers of attorney otherwise authorized by the
25 law of this State. This section does not affect the use of powers of
26 attorney to sign, complete and deliver the form to transfer title
27 and other documents necessary to transfer title, including the

1 odometer disclosure, in title transfers other than those described
2 in subsection (a).

3 SECTION 2. This Act takes effect September 1, 2003.