

1 HB213  
2 135578-2  
3 By Representative Grimsley  
4 RFD: Financial Services  
5 First Read: 07-FEB-12

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ENROLLED, An Act,

To amend Section 40-12-390, Code of Alabama 1975, relating to the definitions for licensing for certain professions, to specify that certain financial entities would not be required to be licensed as used motor vehicle dealers.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-12-390 of the Code of Alabama 1975, is amended to read as follows:

"§40-12-390.

"The following words and phrases, when used in this article, shall have the following meanings:

"(1) COMMISSIONER. The state Commissioner of Revenue.

"(2) DISTRIBUTOR. Any person, firm, or corporation engaged in the business of selling or distributing new motor vehicles to new motor vehicle dealers.

"(3) MANUFACTURER. Any person, firm, or corporation engaged in the business of manufacturing or assembling new and unused motor vehicles.

"(4) MOTOR VEHICLE. Any motor vehicle as defined in Section 40-12-240, but the term shall not include trailers, semitrailers or house trailers as defined in Section 40-12-240.

1           "(5) MOTOR VEHICLE RECONDITIONER. Any person, firm,  
2 or corporation engaged in the business of refurbishing,  
3 repairing, or replacing damaged parts of motor vehicles for  
4 the purpose of preparing the vehicle for resale under the same  
5 identification and identity as the vehicle bore before the  
6 refurbishing.

7           "(6) MOTOR VEHICLE REBUILDER. Any person, firm, or  
8 corporation engaged in the business of making or causing to be  
9 made extensive repairs, replacements, or combination of  
10 different motor vehicles to the extent of extinguishing the  
11 identity of the original vehicle to the extent that the  
12 finished motor vehicle shall be assigned a new identification  
13 to be issued by the Department of Revenue under the provisions  
14 of Chapter 8 of Title 32.

15           "(7) MOTOR VEHICLE WHOLESALER. Any person, firm, or  
16 corporation engaged in the business of buying, selling, or  
17 exchanging motor vehicles at wholesale to motor vehicle  
18 dealers, as defined in this article, and not to the public.

19           "(8) NEW MOTOR VEHICLE. A motor vehicle, other than  
20 a used motor vehicle, the legal title of which has never been  
21 transferred by a manufacturer, distributor, or new motor  
22 vehicle dealer to an ultimate purchaser.

23           "(9) NEW MOTOR VEHICLE DEALER. Any person, firm, or  
24 corporation which holds a bona fide contract or franchise in  
25 this state in effect with a manufacturer or distributor of new

1 motor vehicles and is engaged in the business of selling,  
2 advertising, or negotiating the sale of new motor vehicles or  
3 new and used motor vehicles, and the duly licensed new motor  
4 vehicle dealers shall be the sole and only persons, firms, or  
5 corporations entitled, other than in connection with the  
6 rental or leasing of new motor vehicles by persons engaged in  
7 the business of motor vehicle rental and leasing, to sell and  
8 publicly or otherwise solicit and advertise for sale new motor  
9 vehicles.

10 "(10) PERMANENT LOCATION. A building or structure  
11 from which sales of motor vehicles are conducted. A house used  
12 as a residence by the business owner, a partner, or a  
13 corporate officer from which sales of motor vehicles are  
14 conducted may also be a permanent location. The building or  
15 structure must be owned, rented, or leased and must be used as  
16 an office and a place to receive mail, keep records, and  
17 conduct routine business, to include an operable telephone  
18 listed with the telephone company under the name of the  
19 licensed business.

20 "(11) USED MOTOR VEHICLE. A motor vehicle, the legal  
21 title of which has been transferred by a manufacturer,  
22 distributor, or new motor vehicle dealer to an ultimate  
23 purchaser.

24 "(12) USED MOTOR VEHICLE DEALER. Any person, firm,  
25 or corporation engaged in the business of buying, selling,

1 exchanging, advertising, or negotiating the sale of five or  
2 more motor vehicles at retail during a calendar year, whether  
3 or not the motor vehicles are owned by such person, firm, or  
4 corporation, or in offering or displaying motor vehicles for  
5 sale at retail to the public. The term "selling" or "sale"  
6 shall include lease-purchase transactions. The term "used  
7 motor vehicle dealer" does not include banks, credit unions,  
8 licensees of the State Banking Department, and finance  
9 companies which acquire motor vehicles as an incident to their  
10 regular business and does not include motor vehicle rental and  
11 leasing companies.

12 "(13) ULTIMATE PURCHASER. With respect to a new  
13 motor vehicle, the first person, firm, or corporation, other  
14 than a new motor vehicle dealer purchasing in his or her  
15 capacity as a new motor vehicle dealer, who in good faith  
16 purchases the new motor vehicle for purposes other than  
17 resale. Ultimate purchaser shall not include a person, firm,  
18 or corporation who purchases a vehicle for purposes of  
19 altering or remanufacturing the motor vehicle for future  
20 resale."

21 Section 2. This act shall become effective  
22 immediately following its passage and approval by the  
23 Governor, or its otherwise becoming law.

