August 1, 2007

Henry Guzman, Director
Ohio Department of Public Safety
1970 West Broad Street
P.O. Box 182081
Columbus, Ohio 43218-2081

SYLLABUS: 2007-024

1. R.C. 4505.181(A)(1)(a) requires a dealer who has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. Under R.C. 4505.181(G), the dealer is also required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

2. R.C. 4505.181(A)(1)(a) requires a dealer who has caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. Under R.C. 4505.181(G), the dealer is also required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

3. Under R.C. 4505.181(A)(1)(b) and R.C. 4505.181(G), a dealer who has been licensed as a motor vehicle dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer and who has not caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to such date is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

4. Under R.C. 4505.181(G), a motor vehicle dealer who is licensed under R.C. Chapter 4517 and who does not display, offer for sale, or sell used motor vehicles for which the dealer has not obtained certificates of title in the name of the dealer is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

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August 1, 2007

OPINION NO. 2007-024

Henry Guzman, Director
Ohio Department of Public Safety
1970 West Broad Street
P.O. Box 182081
Columbus, Ohio 43218-2081

Dear Director Guzman:

You have requested an opinion concerning the payment of moneys into the title defect rescission fund[1] and the posting of bonds to compensate retail purchasers of motor vehicles who suffer damages due to the failure of a motor vehicle dealer or person acting on behalf of a motor vehicle dealer to comply with R.C. 4505.181(A). Specifically, you ask whether R.C. 4505.181(A) imposes a mandatory duty on a motor vehicle dealer who displays, offers for sale, or sells used motor vehicles for which the dealer has not obtained certificates of title in the name of the dealer to post a bond or contribute to the title defect rescission fund, and, if so, whether there are circumstances under which the dealer is not required to post a bond or contribute to the fund.

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[1] R.C. 1345.52 requires the creation of the title defect rescission fund in the state treasury. This fund consists of moneys paid to the Attorney General by motor vehicle dealers under R.C. 4505.181(A) for deposit into the fund, the proceeds of all sales conducted and collections obtained by the Attorney General under R.C. 4505.181(D), and any recoveries to the fund obtained by the Attorney General in actions filed under R.C. 1345.07 for violations of R.C. 4505.181. R.C. 1345.52. Moneys in this fund are used solely for maintaining and administering the fund, providing restitution pursuant to R.C. 4505.181(D) to retail purchasers of motor vehicles who suffer damages due to failure of a motor vehicle dealer or person acting on behalf of such a dealer to comply with R.C. 4505.181, and pursuit of deficiencies in the fund caused by the failure of motor vehicle dealers to comply with divisions (A), (B), and (G) of R.C. 4505.181. *Id.*

Based on our review of the relevant statutes, we conclude as follows:

1. R.C. 4505.181(A)(1)(a) requires a dealer who has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. Under R.C. 4505.181(G), the dealer is also required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

2. R.C. 4505.181(A)(1)(a) requires a dealer who has caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. Under R.C. 4505.181(G), the dealer is also required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

3. Under R.C. 4505.181(A)(1)(b) and R.C. 4505.181(G), a dealer who has been licensed as a motor vehicle dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer and who has not caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to such date is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created

under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

4. Under R.C. 4505.181(G), a motor vehicle dealer who is licensed under R.C. Chapter 4517 and who does not display, offer for sale, or sell used motor vehicles for which the dealer has not obtained certificates of title in the name of the dealer is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

Display and Sale of a Used Motor Vehicle When a Dealer Has Not Obtained a Certificate of Title

R.C. 4505.18(A) prohibits a motor vehicle dealer or person acting on behalf of a motor vehicle dealer from displaying or selling a used motor vehicle without first obtaining a certificate of title for the motor vehicle in the name of the dealer:

> No person shall do any of the following:
>
> …;
>
> (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in this chapter;
>
> …;
>
> (6) Except as otherwise provided in this chapter and [R.C. Chapter 4517], sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with [R.C. 4505.06] and subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981[.]

R.C. 4505.18(A)(2) and (A)(6) do not, however, prohibit a motor vehicle dealer or person acting on behalf of a motor vehicle dealer from displaying or selling a used motor vehicle without first obtaining a certificate of title for the motor vehicle in the name of the dealer when the conditions set forth in R.C. 4505.181(A) are satisfied. R.C. 4505.181(A) provides:

> Notwithstanding divisions (A)(2), (5), and (6) of [R.C. 4505.18], a motor vehicle dealer or person acting on behalf of a motor vehicle dealer may display, offer for sale, or sell a used motor vehicle without having first obtained a certificate of title for the vehicle in the name of the dealer as required by this chapter if the dealer or person acting on behalf of the dealer complies with

divisions (A)(1)(a) and (2) of this section, or divisions (A)(1)(b) and (2) of this section, as follows:

(1)(a) If the dealer has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer, or if the attorney general has paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer posts with the attorney general's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with this section. The dealer's surety shall notify the registrar and attorney general when a bond is cancelled. Such notification of cancellation shall include the effective date of and reason for cancellation.

(b) If the dealer has been licensed as a motor vehicle dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer and the attorney general has not paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer pays one hundred fifty dollars to the attorney general for deposit into the title defect recision [sic] fund created by [R.C. 1345.52].

(2) The dealer or person acting on behalf of the dealer possesses a bill of sale for each motor vehicle proposed to be displayed, offered for sale, or sold under this section and a properly executed power of attorney or other related documents from the prior owner of the motor vehicle giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle issued in the name of the dealer, and retains copies of all such documents in the dealer's or person's files until such time as a certificate of title in the dealer's name is issued for each such motor vehicle by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles during normal business hours.

Thus, under R.C. 4505.18(A) and R.C. 4505.181(A), a motor vehicle dealer or person acting on behalf of a motor vehicle dealer is prohibited from displaying or selling a used motor

vehicle without first obtaining a certificate of title for the motor vehicle in the name of the dealer unless the dealer complies with division (a) or (b) of R.C. 4505.181(A)(1).[2]

The Bond Requirement of R.C. 4505.181(A)(1)(a) Is Mandatory

For ease of discussion, we will first consider the language of R.C. 4505.181(A)(1)(a), then the language of R.C. 4505.181(A)(1)(b). The provisions of R.C. 4505.181(A)(1)(a) apply to a dealer who has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. The provisions also apply to a dealer who has caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer.

When a dealer in either situation described in R.C. 4505.181(A)(1)(a) "posts with the attorney general's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with [R.C. 4505.181,]" the dealer or a person acting on behalf of the dealer is permitted by R.C. 4505.181(A)(1)(a) to display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. R.C. 4505.181(A)(1)(a). In other words, a dealer who complies with R.C. 4505.181(A)(1)(a) does not violate R.C. 4505.18(A)(2) or (A)(6) when the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer.

No language within the Revised Code indicates that R.C. 4505.181(A)(1)(a) is to be applied only in certain situations. Nor is there language providing an alternative method by which the dealers described in R.C. 4505.181(A)(1)(a) may qualify to display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. Absent such language, it follows that, unless a dealer described in R.C. 4505.181(A)(1)(a) has complied with the bond requirement set forth in R.C. 4505.181(A)(1)(a), the dealer or person acting on behalf of the dealer may not display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. *See generally Pioneer Linen Supply Co. v. Evatt*, 146 Ohio St. 248, 251, 65 N.E.2d 711 (1946) ("exceptions to a general law are not favored and must be strictly construed, and what is not

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[2] It is assumed, for the purpose of this opinion, that the dealer has complied with the provisions of R.C. 4505.181(A)(2) and any other statutory requirements pertaining to the display or sale of used motor vehicles.

clearly excluded from the operation of a law is clearly included therein"); *Morris Coal Co. v. Donley*, 73 Ohio St. 298, 76 N.E. 945 (1906) (syllabus, paragraph one) ("[a]n exception to the provisions of a statute not suggested by any of its terms should not be introduced by construction from considerations of mere convenience").

Accordingly, R.C. 4505.181(A)(1)(a) requires a dealer who has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. Similarly, R.C. 4505.181(A)(1)(a) requires a dealer who has caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181.

Payment of Moneys into the Title Defect Rescission Fund Under R.C. 4505.181(A)(1)(b)

Let us now turn to the language of R.C. 4505.181(A)(1)(b). Under division (A)(1)(b) of R.C. 4505.181, a dealer who has been licensed as a motor vehicle dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer and who has not caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to such date is permitted to display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer when the dealer pays one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52. This means that a dealer who complies with R.C. 4505.181(A)(1)(b) does not violate R.C. 4505.18(A)(2) or (A)(6) when the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer.

There is no alternative method by which a dealer described in R.C. 4505.181(A)(1)(b) may qualify to display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. As such, absent a situation in which a dealer is not required to pay the fee established in R.C. 4505.181(A)(1)(b), a dealer who does not

pay that fee or person acting on behalf of the dealer may not display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. *See generally Hubbard v. Canton City Sch. Bd. of Educ.*, 97 Ohio St. 3d 451, 2002-Ohio-6718, 780 N.E.2d 543, at ¶14 (2002) ("where the language of a statute is clear and unambiguous, it is the duty of the court to enforce the statute as written, making neither additions to the statute nor subtractions therefrom").

R.C. 4505.181(G) Creates an Exception to the Mandate of R.C. 4505.181(A)(1)(b)

There is one instance in which a dealer who has been licensed as a motor vehicle dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer and who has not caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to such date is not required to pay the one hundred fifty dollar fee established by R.C. 4505.181(A)(1)(b). R.C. 4505.181(G) provides, in part:

> All motor vehicle dealers licensed under [R.C. Chapter 4517] shall pay to the attorney general for deposit into the title defect recision [sic] fund the amount described in division (A)(1)(b) of this section beginning with the calendar year during which this section becomes effective and each year subsequent to that year *until the balance in the fund is not less than three hundred thousand dollars. All such dealers also shall pay to the attorney general for deposit into the fund that amount during any year and subsequent years during which the balance in the fund is less than three hundred thousand dollars until the balance in the fund reaches three hundred thousand dollars*. (Emphasis added.)

The language of R.C. 4505.181(G) plainly states that, upon the creation of the title defect rescission fund, all dealers are required each calendar year to pay to the Attorney General for deposit into the title defect rescission fund the fee described in R.C. 4505.181(A)(1)(b) "until the balance in the fund is not less than three hundred thousand dollars." It states, further, that, after the fund has amassed three hundred thousand dollars, all dealers are required to pay the fee only in those calendar years in "which the balance in the fund is less than three hundred thousand dollars." Thus, under R.C. 4505.181(G), dealers are not required in a calendar year to pay the fee described in R.C. 4505.181(A)(1)(b) when the balance in the title defect rescission fund equals three hundred thousand dollars or more.

Construing divisions (G) and (A)(1)(b) of R.C. 4505.181 together so as to give full force and effect to each division, it is readily apparent that a dealer who has been licensed as a motor vehicle dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer and who has not caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to such date is required each calendar year to pay one hundred fifty

dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more. *See generally State v. Moaning*, 76 Ohio St. 3d 126, 128, 666 N.E.2d 1115 (1996) ("[i]t is a well-settled rule of statutory interpretation that statutory provisions be construed together and the Revised Code be read as an interrelated body of law"); *State v. Parks*, 13 Ohio App. 3d 85, 86, 468 N.E.2d 104 (Franklin County 1983) (sections of a statute that relate to the same subject are to be construed together so as to give full force and effect to the legislative intent).

R.C. 4505.181(G) Mandates That All Dealers Pay the Fee Described in R.C. 4505.181(A)(1)(b)

As a final matter, R.C. 4505.181(A)(1)(b) does not require a dealer who has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52 before the dealer or person acting on behalf of the dealer may display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. Also, R.C. 4505.181(A)(1)(b) does not require a dealer who has caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52 before the dealer or person acting on behalf of the dealer may display, offer for sale, or sell a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer. Finally, R.C. 4505.181(A)(1)(b) does not require a motor vehicle dealer who is licensed under R.C. Chapter 4517 and who does not display, offer for sale, or sell used motor vehicles for which the dealer has not obtained certificates of title in the name of the dealer to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52.

Nevertheless, the fee described in R.C. 4505.181(A)(1)(b) applies to all such motor vehicle dealers. As explained earlier, R.C. 4505.181(G) requires "[a]ll motor vehicle dealers licensed under [R.C. Chapter 4517]" to pay the fee described in R.C. 4505.181(A)(1)(b) in those calendar years in "which the balance in the [title defect rescission] fund is less than three hundred thousand dollars." If a motor vehicle dealer fails to pay the fee described in R.C. 4505.181(A)(1)(b), the Attorney General may bring a civil action in a court of competent jurisdiction to collect the amount the dealer failed to pay to the Attorney General for deposit into the title defect rescission fund. R.C. 4505.181(G).

It is clear from reading R.C. 4505.181(G) that the term "all" is used to modify motor vehicle dealers. The term "all," as used in everyday usage, is defined to mean

> the whole of—used with a singular noun or pronoun, and referring to amount, quantity, extent, duration, quality, or degree. The whole number or sum of—used collectively, with a plural noun or pronoun expressing an aggregate. Every member of individual component of; each of—used with a plural noun. In this sense, all is used generically and distributively. "All" refers rather to the aggregate under which the individuals are subsumed than to the individuals themselves.

Black's Law Dictionary 74 (6th ed. 1990). *See generally* R.C. 1.42 ("[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage"). In R.C. 4505.181(G), therefore, "all" is a general term describing an aggregate of persons.

The use of the term "all" in R.C. 4505.181(G) and the absence of limiting language in the statute thus make it clear that the General Assembly did not intend that limitations to the language of R.C. 4505.181(G) should apply. *See generally Wachendorf v. Shaver*, 149 Ohio St. 231, 237, 78 N.E.2d 370 (1948) ("[t]he Legislature will be presumed to have intended to make no limitations to a statute in which it has included by general language many subjects, persons or entities, without limitation"). Accordingly, every motor vehicle dealer licensed under R.C. Chapter 4517 is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

Consequently, R.C. 4505.181(G) requires the motor vehicle dealers described in R.C. 4505.181(A)(1)(a) to pay the fee established in R.C. 4505.181(A)(1)(b) even though the dealers have posted with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. In addition, R.C. 4505.181(G) requires a motor vehicle dealer who is licensed under R.C. Chapter 4517 and who does not display, offer for sale, or sell used motor vehicles for which the dealer has not obtained certificates of title in the name of the dealer to pay the fee established in R.C. 4505.181(A)(1)(b). *See generally* R.C. 1345.52 (moneys in the title defect rescission fund may be used in "pursuit of deficiencies in the fund caused by the failure of motor vehicle dealers to comply with divisions (A), (B), and (G) of [R.C. 4505.181]").

We must, therefore, conclude further that, under R.C. 4505.181(G), a dealer who has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more. In addition, under R.C. 4505.181(G), a dealer who has caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to the date on which the dealer or person acting on behalf of

the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more. Finally, under R.C. 4505.181(G), a motor vehicle dealer who is licensed under R.C. Chapter 4517 and who does not display, offer for sale, or sell used motor vehicles for which the dealer has not obtained certificates of title in the name of the dealer is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

Conclusions

In summary, it is my opinion, and you are hereby advised as follows:

1. R.C. 4505.181(A)(1)(a) requires a dealer who has been licensed as a motor vehicle dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. Under R.C. 4505.181(G), the dealer is also required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

2. R.C. 4505.181(A)(1)(a) requires a dealer who has caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with R.C. 4505.181. Under R.C. 4505.181(G), the dealer is also required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund

created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

3. Under R.C. 4505.181(A)(1)(b) and R.C. 4505.181(G), a dealer who has been licensed as a motor vehicle dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells a used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer and who has not caused the Attorney General to pay a retail purchaser of the dealer under R.C. 4505.181(C) within three years prior to such date is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

4. Under R.C. 4505.181(G), a motor vehicle dealer who is licensed under R.C. Chapter 4517 and who does not display, offer for sale, or sell used motor vehicles for which the dealer has not obtained certificates of title in the name of the dealer is required each calendar year to pay one hundred fifty dollars to the Attorney General for deposit into the title defect rescission fund created under R.C. 1345.52, unless the balance of the fund equals three hundred thousand dollars or more.

Respectfully,

MARC DANN
Attorney General