

[LTFRB MEMORANDUM CIRCULAR NO. 2006-005, January 19, 2006]

VOLUNTARY SEGREGATION OF AUTHORITY TO OPERATE A UNIT FROM A CERTIFICATE OF PUBLIC CONVENIENCE

The Board has always been mindful of its duty to formulate and implement policies, which are geared towards the improvement of public service to the commuting public and enhancement of the conditions of operators and drivers, as well. The Board has likewise introduced programs, which are intended to improve the franchising system. Such programs are made with the end in view of rectifying the flaws of the franchising system, which flaws are detrimental to public service.

After a further and thorough study of the franchising system, the Board finds some flaws, but not limited hereto, in the system, to wit:

A. Having two or more persons (with the exception of spouses) in one Certificate of Public Convenience (CPC). For instance, a CPC with five (5) authorized units is owned by five persons, to which only one person owns each authorized unit. The policy should have been that for each authorized unit, the same must be owned by the five persons.

B. Many franchise holders operate under an arrangement with non-franchise holders, commonly known as the "kabit system", whereby a person who has been granted a CPC allows another person who owns a motor vehicle to operate under such franchise for a fee. In the case of *Dizon vs. Octavio*, 51 Official Gazette 4059 (1955), the Honorable Supreme Court enunciated that one of the primary factors considered in the granting of a CPC for the business of public transportation is the financial capacity of the holder of the franchise, so that liabilities arising from accidents may be duly compensated. The "kabit system" renders illusory such purpose, and worse, may still be availed of by the grantee to escape civil liability caused by a negligent use of a vehicle owned by another and operated under his franchise. If a registered owner is allowed to escape liability by proving who the supposed owner of the vehicle is, it would be easy for him to transfer the subject vehicle to another who possesses no financial capacity with which to cover for any liability arising from the operation.

In line with the policy of the State to encourage and obtain maximum productivity of existing public utility vehicles, eradicate the harmful and unlawful trade of clandestine operators by replacing or allowing them to become legitimate and responsible operators and update the standards that should henceforth be followed in the operation of public utility vehicles, and pursuant to Department Order 2005-010 setting forth the Policy Guidelines on the Exercise of Authority and Functions by this Board and empowering it to issue Memorandum Circulars governing the powers and functions provided for in Section 5 of EO 202, the Board hereby promulgates and implements the Segregation Program for Authorized Units from their valid and existing CPC. Thus, the following guidelines thereof are hereby made and issued.

1. The Segregation Program shall only apply to those who fall under Items A and B with existing and valid CPC.
2. The Program shall only apply to PUJ and taxi units.
3. The Program covers both parties in the "kabit system". The registered operator of the "mother franchise" shall be referred to as the First Party, and the real owner of the attached units shall be referred to as the Second Party.
4. The following segregation Fees shall be collected per unit declared from both parties aside from the usual fees and charges of the Board:
 - a. First Party:
 - a.1 PUJ - P2,000.00
 - a.2 Taxi - P3,000.00
 - b. Second Party
 - b.1 PUJ - P3,500.00
 - b.2 Taxi - P5,000.00
5. Segregated franchise shall be deducted from the authorized units of the First Party.
6. The Board shall inspect all units sought to be segregated. An original copy of the Franchise verification and payment of the Inspection Fee in the amount of Fifty Pesos (P50.00) per unit shall be presented to the inspector upon inspection of the unit.
7. If the Franchise Verification reveals that the unit sought to be segregated is authorized to two (2) or more CPC, the verifier shall indicate such in each and every page of the Verification Form and immediately inform the
 - a. For Central Office – Chief of the Management and Information Division for the Central Office, who will then inform the Chief of the Legal Division for appropriate recommendation to the Board;
 - b. For the Regional Offices – Chief, Transportation Development Officer, who will then inform the Regional Director to act appropriately.
8. In cases of double authority, the right to apply for Segregation shall be given to the one who can present the unit for inspection.
9. The new CPC shall be granted to the Second Party with a new case number and the mother franchise shall be cancelled. Should there be remaining units with the First Party after segregation, the First Party may avail of this Voluntary