

BILL ANALYSIS

C.S.H.B. 4369
By: Elkins
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under Texas law, a creditor may sell repossessed property in either a public or private sale. If the sale is private, the creditor must provide the debtor with notice of the date after which the collateral will be sold. By law, neither the debtor nor the creditor has a right to bid on the property in a private sale.

Currently, when selling repossessed vehicles, Texas law treats vehicle dealers differently than auction houses. If the vehicle is sold by a car dealer, the creditor need only provide notice to the debtor before placing the vehicle for sale, even if it takes weeks to sell the vehicle. However, if the vehicle is sold at auction by an auction house, the creditor must provide notice to the debtor every time the vehicle is placed for sale. It may require multiple auctions before a vehicle is sold, and the creditor may need to provide notice each time the vehicle is reset for sale at auction.

C.S.H.B. 4369 establishes that the sale by a secured party acting under the Uniform Commercial Code of collateral consisting of a used motor vehicle at auction conducted by an independent motor vehicle dealer constitutes a private disposition under the code for all purposes if certain conditions are met.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4369 amends the Transportation Code to establish that the sale of a used motor vehicle that constitutes collateral by a secured party acting under the Uniform Commercial Code—Secured Transactions and occurring at an auction conducted by an independent motor vehicle dealer, at which neither the debtor nor the secured party is permitted to bid and for which there has been no advertisement or public notice before the sale that specifically describes the collateral to be sold, other than the inclusion of the motor vehicle in a list of the vehicles to be offered at the auction made available to potential bidders at the auction, constitutes a private disposition for purposes of the Uniform Commercial Code—Secured Transactions.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4369 makes no substantive changes to the original but differs from the original by making nonsubstantive technical changes.