

BILL ANALYSIS

S.B. 854
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Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2011, the Texas Legislature enacted legislation relating to the regulation of motor vehicle dealers, manufacturers, and distributors, which, among other provisions, authorized a motor vehicle dealer to enter into a property use agreement with a motor vehicle manufacturer or distributor in which the manufacturer or distributor agrees to provide the dealer with money to help finance capital improvements at the dealership in exchange for the exclusive rights to direct the use of the dealership. S.B. 854 makes further provision for specific property use agreements executed in conjunction with a sale or lease by such manufacturer or dealer or representative of real property to be used by the transferee as a franchise dealership.

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

S.B. 854 amends the Occupations Code to authorize a specific use agreement, defined in the bill as a property use agreement that is executed in conjunction with a sale or as part of the terms of a lease by an owner of real property to a transferee for use by the transferee as a dealership under the terms of a franchise executed or to be executed between the owner and the transferee, to include provisions that allow an owner to limit the transferee's ability to add a line-make after the transferee has opened a franchised dealership on the property to which the specific use agreement applies, to prohibit the sale or sublease of the dealership property by the transferee to a person for a purpose other than the operation of a dealership under a franchise with the owner of the property, or to make such limitations applicable to any successor or sublessee of the transferee. The bill defines an "owner" as a motor vehicle manufacturer, distributor, or representative, including an entity owned or controlled by a manufacturer, distributor, or representative.

S.B. 854 prohibits an owner from coercing or attempting to coerce an existing franchised dealer of the owner to relocate an existing dealership of the same line-make to property that is subject to a specific use agreement. The bill establishes that a specific use agreement is void if it is proven in a civil suit that a person entered into the specific use agreement containing a provision described by the bill's provisions as a result of coercion.

S.B. 854 limits the applicability of a specific use agreement executed in conjunction with the sale of real property to the necessary real estate and sets out provisions relating to the expiration of a specific use agreement executed in conjunction with the sale of real property to an existing franchised dealer for the purpose of relocating an existing dealership of the same line-make to property that is the subject of the specific use agreement or to a person for the purpose of establishing a new dealership. The bill establishes that there is no penalty for the full performance by the transferee and transfer of title to the transferee prior to the time set forth by the contract's terms unless the specific use agreement associated with the sale of property

expressly provides otherwise. The bill specifies that its provisions control to the extent any conflict exists between the bill's provisions and statutory provisions relating to a specific use agreement.

S.B. 854, in a provision prohibiting a dealer from protesting an application to relocate a dealership if the proposed relocation site is two miles or less from the dealership's current location, specifies that prohibition applies to a franchised dealer and conditions the prohibition on the proposed relocation site not being more than two miles from the site where the dealership is currently located nor closer to the franchised dealer than the site from which the dealership is being relocated.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.