



**House  
Legislative  
Analysis  
Section**

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**REQUIRE REPURCHASE OF CERT. INVENTORY**

House Bill 4412 as enrolled  
Second Analysis (1-8-90)

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Sponsor: Rep. Thomas L. Hickner  
House Committee: Corporations & Finance  
Senate Committee: Commerce & Technology

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**THE APPARENT PROBLEM:**

The Farm and Utility Equipment Franchise Act was enacted in 1984 to protect farm and utility equipment dealers from losses incurred when a supplier terminates a contract, leaving the dealer with surplus inventories which the supplier refuses to repurchase. These dealers often are required by their suppliers to maintain certain parts and machinery inventories — in some cases, worth over \$1 million — in order to meet emergency demands for equipment from farmers and others who use this type of machinery, who, due to equipment failure, may need to get parts or equipment quickly to ensure their operations are uninterrupted. The act requires an equipment supplier to repurchase surplus inventories if a contract between a supplier and dealer terminates. After a recent court ruling declared that a certain dealer was not a "franchise," as the act defines that word, which exempted the supplier in the case from having to comply with requirements in the act, the proponents of the original legislation see the need to amend the act and its title to ensure that it includes a broader range of dealers, wholesalers and distributors of various types of farm and utility equipment who, they assert, should be covered under the act.

**THE CONTENT OF THE BILL:**

The bill would amend the Farm and Utility Equipment Franchise Act and its title to differentiate between types of dealers engaged in the buying or selling of farm and utility equipment. The act's title would be changed to the "Farm and Utility Equipment Act" and the bill would include the words "wholesaler or distributor" throughout the act, and would thus make the act's repurchase provisions (which now apply only in the case of franchise agreements) apply to all repurchase agreements between manufacturers or suppliers of such equipment and dealers, wholesalers, and distributors.

The bill specifies that if a dealer, wholesaler or distributor entered into a wholesaler or distributor agreement with a manufacturer — as evidenced by a written or implied contract, sales agreement, security agreement, or franchise agreement — which was subsequently terminated, the manufacturer or supplier would be required to repurchase the inventory of the wholesaler or distributor in the same manner that a franchise supplier is required to repurchase a dealer's inventory. Also, the bill would extend the deadline for repurchase by the manufacturer or supplier of inventory from 60 to 90 days after the supplier or manufacturer received the inventory.

The bill would reduce the amount of time in which the heirs of a deceased dealer, wholesaler, or distributor may exercise their option to have the supplier or manufacturer repurchase the inventory of the dealer, wholesaler or distributor. Currently, the heirs have 270 days from the date of the death to exercise their option; the bill would reduce the time to 200 days.

Finally, the bill would expand the act to cover lawn and garden, construction, materials-handling, and earth-moving equipment in addition to agriculture, horticulture, livestock raising, forestry, and grounds-maintenance equipment now covered by the act.

MCL 445.1451 et al.

**FISCAL IMPLICATIONS:**

According to the Senate Fiscal Agency, the bill would not have state or local budgetary implications. (12-7-89)

**ARGUMENTS:**

**For:**

By applying the bill's provisions to all repurchase agreements between manufacturers or suppliers of farm and utility equipment and dealers, wholesalers, and distributors, and expanding the types of equipment subject to the act, the bill would help protect the financial interests of small equipment dealers who are threatened by bankruptcy when a supplier fails to repurchase equipment upon a contract's termination.

H.B. 4412 (1-8-90)