

RECREATIONAL VEHICLE FRANCHISE ACT (EXCERPT)
Act 33 of 2009

***** 445.1935.new THIS NEW SECTION IS EFFECTIVE DECEMBER 1, 2009 *****

445.1935.new Change of ownership; death, incapacity, or retirement of designated principal.

Sec. 15. (1) All of the following apply to a proposed sale of the business assets, transfer of the stock, or other transaction that will result in a change of ownership of a dealer, except a transaction described in subsection (2):

(a) The dealer must provide written notice to the manufacturer at least 90 days before the proposed closing of the transaction. The notice shall include complete copies of all documentation of the proposed transaction and any other documentation reasonably requested by the manufacturer in order to determine if it will make an objection to the transaction.

(b) If the dealer is not in breach of the dealer agreement or in violation of this act at the time it provides the notice described in subdivision (a), the manufacturer shall not object to the proposed transaction unless the prospective transferee meets 1 or more of the following:

(i) It previously was a party to a dealer agreement with the manufacturer that the manufacturer terminated.

(ii) Was previously convicted of a felony or any crime of fraud, deceit, or moral turpitude.

(iii) Does not have any license required by law to conduct business as a dealer in this state.

(iv) Does not have an active line of credit sufficient to purchase recreational vehicles from the manufacturer according to the terms of the dealer agreement.

(v) In the preceding 10 years, was bankrupt or insolvent, made a general assignment for the benefit of creditors, or a receiver, trustee, or conservator was appointed to take possession of the transferee's business or property.

(c) If the manufacturer objects to the proposed transaction, the manufacturer shall give written notice of its objection, including its reasons for objecting, to the dealer within 30 days after receiving the notice described in subdivision (a). If the manufacturer does not give notice of its objection within that 30-day period, the proposed transaction is considered approved by the manufacturer.

(d) For purposes of subdivision (c), the manufacturer has the burden of demonstrating its objection to the proposed transaction.

(2) All of the following apply concerning the death, incapacity, or retirement of the designated principal of a dealer:

(a) The manufacturer must provide the dealer an opportunity to designate, in writing, a family member as a successor to the dealer in the event of the death, incapacity, or retirement of the designated principal.

(b) The manufacturer shall not prevent or refuse to honor the succession to a dealership by a family member of the deceased, incapacitated, or retired designated principal of that dealer unless the manufacturer had provided written notice to the dealer of any objections to the dealer's succession plan within 30 days after receiving the dealer's succession plan or any modification of the dealer's succession plan.

(c) Except as provided in subdivision (e), unless the dealer is in breach of the dealer agreement, a manufacturer shall not object to the succession to a dealership by a family member of the deceased, incapacitated, or retired designated principal unless the successor meets 1 or more of the following:

(i) Was previously convicted of a felony or any crime of fraud, deceit, or moral turpitude.

(ii) In the preceding 10 years, was bankrupt, insolvent, or made an assignment for the benefit of creditors.

(iii) Was previously a party to a dealer agreement with the manufacturer that the manufacturer terminated for a breach of a dealer agreement.

(iv) Does not have an active line of credit sufficient to purchase recreational vehicles from the manufacturer according to the terms of the dealer agreement.

(v) Does not have any license required by law to conduct business as a dealer in this state.

(d) The manufacturer has the burden of proof regarding any objection to the succession to a dealership by a family member of the deceased, incapacitated, or retired designated principal.

(e) The manufacturer's consent is required for the succession to a dealership by a family member of the deceased, incapacitated, or retired designated principal if the succession involves a relocation of the business or an alteration of the terms and conditions of the dealer agreement.

History: 2009, Act 33, Eff. Dec. 1, 2009.