

MOTOR VEHICLE FRANCHISE ACT (EXCERPT)
Act 118 of 1981

445.1572 Payment of compensation; time; determination of amount; interest; definitions.

Sec. 12. (1) A manufacturer shall pay the compensation for new motor vehicle inventory and items of personal property required under section 11(1) within 60 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance, provided that the new motor vehicle dealer has met all reasonable requirements of the dealer agreement with respect to the return of the new motor vehicle inventory and repurchased personal property, including providing clear title to the repurchased personal property.

(2) All of the following apply in determining the amount of fair and reasonable compensation under section 11(1):

(a) Fair and reasonable compensation under section 11(1)(a) shall be not less than the new motor vehicle dealer's net acquisition cost.

(b) Fair and reasonable compensation for supplies and parts inventory for purposes of section 11(1)(b) is the amount stated in the manufacturer's current parts price list.

(c) Fair and reasonable compensation for purposes of section 11(1)(c), (d), and (e) is the fair market value of the personal property described in those subdivisions.

(3) All of the following apply to the determination of fair rental value of a new motor vehicle dealer's established place of business under section 11(2):

(a) The manufacturer and dealer shall make a good faith effort to agree to the fair rental value of the premises, taking into consideration the adequacy and desirability of the premises for dealership operations and the fair market value of the premises.

(b) If the manufacturer and the new motor vehicle dealer agree on the fair rental value within 30 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, that valuation is conclusive and binding on the manufacturer and the new motor vehicle dealer.

(c) If the manufacturer and dealer cannot agree to the fair rental value of the premises under subdivision (a) within 30 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, the fair rental value of the premises shall be determined by 3 qualified real estate appraisers. All of the following apply to the determination of fair rental value under this subdivision:

(i) The dealer and manufacturer shall each select a qualified real estate appraiser within 60 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, and those appraisers shall select a third qualified real estate appraiser.

(ii) Within 150 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, each of the 3 appraisers selected under subparagraph (i) shall complete an appraisal of the fair rental value of the premises, and the median appraisal shall be the fair rental value of the premises for purposes of this subsection.

(iii) The manufacturer and the dealer are each responsible for 50% of the costs of the appraisals under this subdivision.

(4) All of the following apply in determining the fair and reasonable compensation for a new motor vehicle dealer's goodwill under section 11(3):

(a) If a successor manufacturer offers a dealer agreement to a dealer whose dealer agreement with the manufacturer is terminated, canceled, not renewed, or discontinued and the terms of the proposed dealer agreement are substantially similar to the terms offered by the successor manufacturer to other new motor vehicle dealers of the same line make, the manufacturer that terminated, canceled, did not renew, or discontinued the dealer agreement is not required to pay any compensation under section 11(3) for the dealer's goodwill.

(b) If subdivision (a) does not apply, the manufacturer and dealer shall make a good faith effort to agree to fair and reasonable compensation for the dealer's goodwill, based on the fair market value of that goodwill on the day before the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement.

(c) If the manufacturer and the new motor vehicle dealer agree on fair and reasonable compensation within 30 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, that agreement is conclusive and binding on the manufacturer and the new motor vehicle dealer.

(d) If the manufacturer and dealer cannot agree to fair and reasonable compensation for the dealer's goodwill under subdivision (b) within 30 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, the amount of fair and reasonable compensation for the dealer's goodwill shall be determined by 3 qualified appraisers. All of the following apply to the determination of fair and reasonable compensation under this subdivision:

(i) The dealer and manufacturer shall each select a qualified appraiser within 60 days after the effective

date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, and those appraisers shall select a third qualified appraiser.

(ii) Within 150 days after the effective date of the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, each of the 3 appraisers selected under subparagraph (i) shall complete an appraisal of the fair market value of the dealer's goodwill on the day before the termination, cancellation, nonrenewal, or discontinuance of the dealer agreement, and the median appraisal of that fair market value shall be the fair and reasonable compensation for the goodwill for purposes of this subsection.

(iii) The manufacturer and the dealer are each responsible for 50% of the costs of the appraisals under this subdivision.

(5) If a payment required under subsection (1) is not made within the 60-day period described in that subsection, then beginning on the day after the expiration of that 60-day period, interest shall accrue on all amounts due the new motor vehicle dealer at a rate of 6% per annum.

(6) As used in this section:

(a) "Qualified appraiser" means an independent individual who is qualified by experience and ability to value the goodwill of a business.

(b) "Qualified real estate appraiser" means a certified general real estate appraiser or a state licensed real estate appraiser, as those terms are defined in section 2601 of the occupational code, 1980 PA 299, MCL 339.2601.

History: 1981, Act 118, Imd. Eff. July 19, 1981;—Am. 1983, Act 188, Imd. Eff. Nov. 1, 1983;—Am. 2010, Act 141, Imd. Eff. Aug. 4, 2010.