WEST VIRGINIA CODE: §17A-6A-12A

§17A-6A-12a. Restriction on motor vehicle dealer's use of dealership property.

(1) A manufacturer shall not require that a new motor vehicle dealer, a proposed new motor vehicle dealer, or any owner of an interest in a dealership facility enter into or agree to a property use agreement as a condition to any of the following:

(a) Awarding a dealer agreement to a prospective new motor vehicle dealer.

(b) Adding a line make or dealer agreement to an existing new motor vehicle dealer.

(c) Renewing a dealer agreement with an existing new motor vehicle dealer.

(d) Approving a relocation of a new motor vehicle dealer's place of business.

(e) Approving a sale or transfer of the ownership of a dealership or a transfer of a dealer agreement to another person.

(2) Subsection (1) of this section does not apply to a property use agreement if any of the following are offered and accepted for that agreement:

(a) Monetary consideration.

(b) Separate and valuable consideration that can be calculated to a sum certain.

(3) If a manufacturer and new motor vehicle dealer are in parties to a property use agreement, the dealer agreement between the manufacturer and new motor vehicle dealer is terminated by a manufacturer or by a successor manufacturer or by operation of law and the reason for the termination is not a reason described in paragraphs (1) through (5), inclusive, subdivision (c), section seven of this article, the property use agreement terminates and ceases to be effective at the time the dealer agreement is terminated.

(4) If any provision contained in a property use agreement entered into on or after the effective date of the amendatory act that added this subsection is inconsistent with this section, the provision is voidable at the election of the affected new motor vehicle dealer, proposed new motor vehicle dealer, or owner of an interest in the dealership facility.

(5) As used in this section, "property use agreement" means any of the following:

(a) An agreement that requires that a new motor vehicle dealer establish or maintain exclusive dealership facilities.

(b) An agreement that restricts the ability of a new motor vehicle dealer, or the ability of the dealer's lessor if the dealer is leasing the dealership facility, to transfer, sell, lease, or

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change the use of the place of business of the dealership, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase, option to lease, or other similar agreement, regardless of who the parties to that agreement are.

(c) Any similar agreement between a manufacturer and a new motor vehicle dealer and commonly known as a site control agreement or exclusive use agreement.

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