

BILL ANALYSIS

Senate Research Center
80R9309 MXM-F

S.B. 1617
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Transportation & Homeland Security
4/14/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislature in 1993, adopted a law that requires motor vehicle dealers who obtain a special seller-finance permit to pay a sales tax on payments actually received from a purchaser under an installment contract. The law includes a "due-on-sale" provision that accelerates the payment of the sales tax for the entire purchase price if the installment contract is sold, assigned, or otherwise transferred to a third party.

The federal Internal Revenue Code was amended, around the same time, to require installment sellers, including motor vehicle dealers, to include in their reported annual income the entire value of an installment contract in the year in which the transaction is entered. Motor vehicle dealers began creating related finance companies, as a result of the federal law, to allow the dealer to sell an installment contract to the related finance company at a discounted price, lowering the federal income tax liability of the dealer on the installment contract. However, because of the "due-on-sale" clause under state law, Texas dealers cannot take advantage of the deferred sales tax under state law or the lowered tax basis if they sell, assign, or transfer an installment contract to a related finance company.

As proposed, S.B. 1617 excludes motor vehicle dealers from paying taxes under the accelerated "due-on-sale" provision if the dealer transfers the right to receive payments under an installment contract to a related finance company.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 152.047, Tax Code, by adding Subsection (g-1), as follows:

(g-1) Provides that Subsection (g) (requiring a seller, if the seller factors, assigns, or transfers the right to receive payments under an installment contract, to report and submit taxes for consideration at the time of the transfer), does not apply to a transaction by a dealer, as defined by Section 503.001 (a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location), Transportation Code, in which the dealer sells a purchaser's account to a person in which at least 80 percent of the ownership is identical to the ownership of the dealer, or grants a security interest in a purchaser's account but retains custody and control of the account and the right to receive payments in the absence of a default under the security agreement.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: July 1, 2007, or September 1, 2007.