HB 880

Policy

- Over the past ten years, numerous Illinois auto dealerships have closed and failed to pay off vehicles traded in to the dealership by consumers. The result is that innocent consumers become financially responsible for two car loans.
- Similarly, these closed dealerships often sold vehicles with an undisclosed lien, resulting in both consumers and car dealerships having possession of a vehicle they paid for, but being unable to drive, title or sell.
- The State of Illinois is aware of at least 60 dealerships that have closed in the last eight years without paying off traded-in vehicles or selling vehicles with undisclosed liens.

Other States

- Forty-nine states have chosen to protect consumers from harm related to dealership closings by requiring dealerships to obtain bonds on which consumers can make claims, or by creating a separate trust fund to assist consumers when a dealership closes.
- Illinois did not have a bond or trust fund that could be used to assist victims of dealership closings.

Trust or Bond

- The State of Illinois looked at the economic impact of both a bond requirement and a trust fund.
- Requiring automobile dealerships to obtain a bond would be more expensive than a trust fund. Additionally, a bond requirement has a guaranteed annual expense. Last, a bond has an exposure limit and expires if not used.
- HB 880 elected to create a trust fund as the most efficient model to address the problem associated with dealership closings. A trust fund has a lower annual expense, and monies obtained and not used would remain part of the trust fund.

Impact on Industry

- When a dealership closes and fails to pay off traded in vehicles or sells a vehicle with an undisclosed lien, it often financially affects numerous parties associated with the transaction. Consumers are harmed and saddled with two loans on a vehicle they can not title. Similarly, financial institutions and vendors sustain huge losses when trade- ins are not paid off or vehicles are sold with undisclosed prior liens, which increases the cost of doing business for all players in the automobile industry.
- HB 880 was supported by both consumer and industry groups.

Details

- HB 880 would require automobile and motorcycle dealers to pay $500 annually into a Dealer Recovery Trust Fund (“Fund”) to be used to pay off vehicles traded-in to dealerships that close. The Fund could also be used when a vehicle is purchased from a dealership that closes and sells a vehicle with an undisclosed lien.
- Dealers that primarily sell trailers, motor homes, or recreational vehicles (“RV’s”) will not be required to pay into the Fund.
- Dealerships that sell 25 vehicles a year or less would not be required to pay into the Fund.
- In any year that the Fund reaches $3,500,000, the $500 annual fee will be suspended.
- If a dealership does not pay $500 into the Fund, their automobile license will be revoked by the Secretary of State.
- Consumers and automobile dealers would be eligible to file claims against the Fund.
- The Fund would be maintained and administered outside the State by a Fund Administrator.
- Bill allows the Trust Fund Administrator to be paid expenses at no more than 2% of the balance of the Fund.
- Bill would create a Dealer Recovery Trust Fund Board (“Board”)
- The Board would have 3 members: (1) Secretary of State designee, (2) Attorney General designee, and (3) a person alternatively representing new and used car dealers chosen collectively by the Secretary of State and the Attorney General.
- In order to protect the Fund from being misused and requiring additional $500 annual fees, the Fund cannot pay claims until the dealership has filed for bankruptcy or the dealer’s automobile license has been revoked or terminated.
- The Fund shall seek repayment from the responsible dealership for all claims paid. If a dealership does not reimburse the Fund, the dealership will not be eligible for renewal of its dealer license.