

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative(s) Carroll offered the following:

2
3 **Amendment (with title amendment)**

4 Remove line(s) 50-245 and insert:

5 Section 1. Subsections (7) through (19) of section 520.02,
6 Florida Statutes, are renumbered as subsections (8) through
7 (20), respectively, and new subsection (7) is added to that
8 section to read:

9 520.02 Definitions.--In this act, unless the context or
10 subject matter otherwise requires:

11 (7) "Guaranteed asset protection product" means a loan,
12 lease, or retail installment contract term, or modification or
13 addendum to a loan, lease, or retail installment contract, under
14 which a creditor agrees to waive a customer's liability for
15 payment of some or all of the amount by which the debt exceeds
16 the value of the collateral. Such a product is not insurance for
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17 purposes of the Florida Insurance Code. This subsection applies
18 to all guaranteed asset protection products issued before
19 October 1, 2007.

20 Section 2. Subsection (11) is added to section 520.07,
21 Florida Statutes, to read:

22 520.07 Requirements and prohibitions as to retail
23 installment contracts.--

24 (11) In conjunction with entering into any new retail
25 installment contract or contract for a loan, a motor vehicle
26 retail installment seller as defined in s. 520.02, a sales
27 finance company as defined in s. 520.02, or a retail lessor as
28 defined in s. 521.003, and any assignee of such an entity, may
29 offer, for a fee or otherwise, optional guaranteed asset
30 protection products in accordance with this chapter. The motor
31 vehicle retail installment seller, sales finance company, retail
32 lessor, or assignee may not require the purchase of a guaranteed
33 asset protection product as a condition for making the loan. In
34 order to offer any guaranteed asset protection product, a motor
35 vehicle retail installment seller, sales finance company, or
36 retail lessor, and any assignee of such an entity, shall comply
37 with the following:

38 (a) The cost of any guaranteed asset protection product,
39 with respect to any loan covered by the guaranteed asset
40 protection product, shall not exceed the amount of the
41 indebtedness.

42 (b) Any contract or agreement pertaining to a guaranteed
43 asset protection product shall be governed by this section.

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44 (c) A guaranteed asset protection product is considered an
45 obligation of any person that purchases or otherwise acquires
46 the loan contract covering such product.

47 (d) An entity providing guaranteed asset protection
48 products shall provide readily understandable disclosures that
49 explain in detail eligibility requirements, conditions, refunds,
50 and exclusions. The disclosures must provide that the purchase
51 of the product is optional. The disclosures must be in plain
52 language and of a typeface and size that are easy to read.

53 (e) An entity must provide a copy of the executed
54 guaranteed asset protection product contract to the buyer. The
55 entity bears the burden of proving the contract was provided to
56 the buyer.

57 (f) An entity may not offer a contract for a guaranteed
58 asset protection products that contains terms giving the entity
59 the right to unilaterally modify the contract unless:

60 1. The modification is favorable to the buyer and is made
61 without additional charge to the buyer; or

62 2. The buyer is notified of any proposed change and is
63 provided a reasonable opportunity to cancel the contract without
64 penalty before the change goes in effect.

65 (g) If a contract for a guaranteed asset protection
66 product is terminated, the entity shall refund to the buyer any
67 unearned fees paid for the contract unless the contract provides
68 otherwise. A refund is not due to a consumer who receives a
69 benefit under such product. In order to receive a refund, the
70 buyer must notify the entity of the event terminating the
71 contract and request a refund within 90 days after the

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72 occurrence of the event terminating the contract. An entity may
73 offer a buyer a contract that does not provide for a refund only
74 if the entity also offers that buyer a bona fide option to
75 purchase a comparable contract that provides for a refund.

76 Section 3. Subsection (3) of section 520.35, Florida
77 Statutes, is amended to read:

78 520.35 Revolving accounts.--

79 (3) Notwithstanding the provisions of any other law, the
80 seller under a revolving account may charge, receive, and
81 collect a finance charge which may not exceed 15 cents per \$10
82 per month, computed on all amounts unpaid under the revolving
83 account from month to month (which need not be a calendar month)
84 or other regular period, and a delinquency charge not to exceed
85 \$25 ~~\$10~~ for each payment in default for a period of not less
86 than 10 days, if the charge is agreed upon, in writing, between
87 the parties before imposing any charge. If the amount of the
88 finance charge so computed is less than \$1 for any such month, a
89 finance charge of \$1 for any such month may be charged,
90 received, and collected. If the regular period is other than
91 such monthly period or if the unpaid amount is less than or
92 greater than \$5, the permitted finance charge shall be computed
93 proportionately. Such finance charge may be computed for all
94 unpaid balances within a range of not in excess of \$10 on the
95 basis of the median amount within such range, if as so computed
96 such finance charge is applied to all unpaid balances within
97 such range.

98 Section 4. Paragraph (r) is added to subsection (1) of
99 section 624.605, Florida Statutes, to read:

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100 624.605 "Casualty insurance" defined.--

101 (1) "Casualty insurance" includes:

102 (r) Insurance for debt cancellation products.--Insurance
103 that a creditor may purchase against the risk of financial loss
104 from the use of debt cancellation products with consumer loans
105 or leases or retail installment contracts.

106 1. For purposes of this paragraph, the term "debt
107 cancellation products" means loan, lease, or retail installment
108 contract terms, or modifications to loan, lease, or retail
109 installment contracts, under which a creditor agrees to cancel
110 or suspend all or part of a customer's obligation to make
111 payments upon the occurrence of specified events and includes,
112 but is not limited to, debt cancellation contracts, debt
113 suspension agreements, and guaranteed asset protection
114 contracts. However, the term "debt cancellation products" does
115 not include title insurance as defined in s. 624.608.

116 2. Debt cancellation products may be offered by financial
117 institutions, as defined in s. 655.005(1)(h), including insured
118 depository institutions as defined in 12 U.S.C. s. 1813(c), and
119 subsidiaries of such institutions, as provided in the financial
120 institution codes, or by other business entities as may be
121 specifically authorized by law, and such products shall not
122 constitute insurance for purposes of the Florida Insurance Code.

123 Section 5. Subsection (3) of section 627.553, Florida
124 Statutes, is amended to read:

125 627.553 Debtor groups.--The lives of a group of
126 individuals may be insured under a policy issued to a creditor
127 or its parent holding company, or to a trustee or trustees or
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128 agent designated by two or more creditors, which creditor,
129 holding company, affiliate, trustee or trustees, or agent shall
130 be deemed the policyholder, to insure debtors of the creditor or
131 creditors, subject to the following requirements:

132 (3) The amount of insurance on the life of any debtor
133 shall at no time exceed the amount owed by the debtor ~~her or him~~
134 which is repayable in installments to the creditor ~~or \$50,000,~~
135 ~~whichever is less, except that loans not exceeding 1 year's~~
136 ~~duration shall not be subject to such limits. However, on such~~
137 ~~loans not exceeding 1 year's duration, the limit of coverage~~
138 ~~shall not exceed \$50,000 with any one insurer.~~

139 Section 6. Paragraph (b) of subsection (1) of section
140 627.679, Florida Statutes, is amended to read:

141 627.679 Amount of insurance; disclosure.--

142 (1)

143 (b) The total amount of credit life insurance on the life
144 of any debtor with respect to any loan or loans covered in one
145 or more insurance policies shall at no time exceed the amount of
146 the indebtedness ~~\$50,000 with any one creditor, except that~~
147 ~~loans not exceeding 1 year's duration shall not be subject to~~
148 ~~such limits, and on such loans not exceeding 1 year's duration,~~
149 ~~the limits of coverage shall not exceed \$50,000 with any one~~
150 ~~insurer.~~

151 Section 7. Subsection (2) of section 627.681, Florida
152 Statutes, is amended to read:

153 627.681 Term and evidence of insurance.--

154 (2) The term of credit disability insurance on any debtor
155 insured under this section shall not exceed the term of

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156 indebtedness 10 years, and for credit transactions that exceed
157 60 months, coverage shall not exceed 60 monthly indemnities.

158 Section 8. Paragraphs (g) and (h) of subsection (1) of
159 section 655.005, Florida Statutes, are amended, and paragraph
160 (t) is added to that subsection, to read:

161 655.005 Definitions.--

162 (1) As used in the financial institutions codes, unless
163 the context otherwise requires, the term:

164 (g) "Federal financial institution" means a federally or
165 nationally chartered or organized financial institution
166 association, bank, savings bank, or credit union.

167 (h) "Financial institution" means a state or federal
168 savings or thrift association, bank, savings bank, trust
169 company, international bank agency, international banking
170 organization, international branch, international representative
171 office, or international administrative office, or credit union,
172 or an agreement corporation operating pursuant to s. 25 of the
173 Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act
174 corporation organized pursuant to s. 25(a) of the Federal
175 Reserve Act, 12 U.S.C. ss. 611 et seq.

176 (t) "Debt cancellation products" means loan, lease, or
177 retail installment contract terms, or modifications or addenda
178 to loan, lease, or retail installment contracts, under which a
179 creditor agrees to cancel or suspend all or part of a customer's
180 obligation to make payments upon the occurrence of specified
181 events and includes, but is not limited to, debt cancellation
182 contracts, debt suspension agreements, and guaranteed asset
183 protection contracts offered by financial institutions, insured

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184 depository institutions as defined in 12 U.S.C. s. 1813(c), and
185 subsidiaries of such institutions. However, the term "debt
186 cancellation products" does not include title insurance as
187 defined in s. 624.608.

188 Section 9. Subsection (1) of section 655.79, Florida
189 Statutes, is amended to read:

190 655.79 Deposits and accounts in two or more names;
191 presumption as to vesting on death.--

192 (1) Unless otherwise expressly provided in a contract,
193 agreement, or signature card executed in connection with the
194 opening or maintenance of an account, including a certificate of
195 deposit, a deposit account in the names of two or more persons
196 shall be presumed to have been intended by such persons to
197 provide that, upon the death of any one of them, all rights,
198 title, interest, and claim in, to, and in respect of such
199 deposit account, less all proper setoffs and charges in favor of
200 the institution, vest in the surviving person or persons. Any
201 deposit or account made in the name of two persons who are
202 husband and wife shall be considered a tenancy by the entirety
203 unless otherwise specified in writing.

204 Section 10. Section 655.947, Florida Statutes, is created
205 to read:

206 655.947 Debt cancellation products.--

207 (1) Debt cancellation products may be offered, and a fee
208 may be charged, by financial institutions and subsidiaries of
209 financial institutions subject to the provisions of this section
210 and the rules and orders of the commission or office. As used in
211 this section, the term "financial institutions" includes those

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212 defined in s. 655.005(1)(h), insured depository institutions as
213 defined in 12 U.S.C. s. 1813, and subsidiaries of such
214 institutions.

215 (2) A financial institution shall manage the risks
216 associated with debt cancellation products in accordance with
217 prudent safety and soundness principles. A financial institution
218 shall establish and maintain effective risk management and
219 control processes over its debt cancellation products and
220 programs. Such processes shall include appropriate recognition
221 and financial reporting of income, expenses, assets, and
222 liabilities and appropriate treatment of all expected and
223 unexpected losses associated with the products. Each financial
224 institution shall also assess the adequacy of its internal
225 control and risk mitigation activities in view of the nature and
226 scope of its debt cancellation products and programs.

227 (3) The commission shall adopt rules pursuant to ss.
228 120.536(1) and 120.54 to administer this section, which rules
229 must be consistent with 12 C.F.R. part 37, as amended.

230 (4) For the purposes of this section and any rules adopted
231 pursuant to this section, a periodic payment option is not
232 required to be offered for any debt cancellation product
233 designed to protect a customer against a deficiency between the
234 outstanding loan or lease amount and the value of the motor
235 vehicle that is used as collateral for the loan or lease.

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238 ===== T I T L E A M E N D M E N T =====

239 Remove line(s) 3-29 and insert:

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240 F.S.; defining the term "guaranteed asset protection product";
241 amending s. 520.07, F.S.; authorizing certain entities to offer
242 optional guaranteed asset protection products under certain
243 circumstances; prohibiting such entities from requiring purchase
244 of such products as a condition for certain financial
245 transactions; providing requirements for offering such products;
246 providing limitations; amending s. 520.35, F.S.; revising a fee
247 relating to certain revolving accounts; amending s. 624.605,
248 F.S.; including debt cancellation products under casualty
249 insurance; providing a definition; authorizing certain entities
250 to offer debt cancellation products under certain circumstances;
251 specifying such products as not constituting insurance; amending
252 ss. 627.553 and 627.679, F.S.; revising limitations on the
253 amount of authorized insurance for debtors; amending s. 627.681,
254 F.S.; revising a limitation on the term of credit disability
255 insurance; amending s. 655.005, F.S.; revising and providing
256 definitions; amending s. 655.79, F.S.; specifying certain
257 accounts as tenancies by the entirety; creating s. 655.947,
258 F.S.; authorizing financial institutions to offer debt
259 cancellation products; authorizing a fee; providing a
260 definition; providing requirements for financial institutions
261 relating to debt cancellation products; requiring the Financial
262 Services Commission to adopt rules; specifying that periodic
263 payment options are not required to be offered for certain debt
264 cancellation products; amending s. 655.954, F.S.; authorizing
265 certain

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