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CS/CS/HB 783, Engrossed 1

2014 Legislature

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 2 An act relating to motor vehicle sales; amending s.
 3 545.01, F.S.; revising and reordering definitions;
 4 defining terms; creating s. 545.045, F.S.; prohibiting
 5 an affiliated finance company from taking specified
 6 actions relating to certain finance obligations
 7 arising from a vehicle contract that contains a third-
 8 party provider's specified automotive related product;
 9 providing factors to determine whether an automotive
 10 related product is similar in nature, scope, and
 11 quality to an automotive related product offered for
 12 sale by an affiliated finance company or its related
 13 manufacturer or wholesale distributor; providing that
 14 a violation does not constitute a criminal offense;
 15 providing an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Section 545.01, Florida Statutes, is reordered
 20 and amended to read:

21 545.01 Definitions.—As used in this chapter, the term:

22 (1) "Affiliated finance company" means a finance company
 23 which:

24 (a) Is affiliated with or controlled by a manufacturer or
 25 wholesale distributor through common ownership, officers,



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26 directors, or management; or

27 (b) Has a contractual agreement with a manufacturer or
28 wholesale distributor to finance, via sale or lease, motor
29 vehicles produced or distributed by such manufacturer or
30 wholesale distributor.

31 (2) "Automotive related product" means a motor vehicle
32 service agreement, as defined in s. 634.011, or a guaranteed
33 asset protection product, as defined in s. 520.02, or other non-
34 tangible ancillary product that is purchased or otherwise
35 provided as part of the sale or lease of a motor vehicle by a
36 dealer.

37 ~~(6)(1) The term "Person" as used in this chapter means an~~
38 ~~any individual, firm, corporation, partnership, limited~~
39 ~~liability company, association, trustee, receiver, or assignee~~
40 ~~for the benefit of creditors.~~

41 ~~(7)(2) The terms "Sell," "sold," "buy," or and "purchase,"~~
42 ~~includes as used in this chapter, include an exchange, barter,~~
43 ~~gift, or and offer to contract to sell or buy.~~

44 ~~(5)(3) The term "Manufacturer" means a any person engaged,~~
45 ~~directly or indirectly, in the manufacture of motor vehicles.~~

46 ~~(10)(4) The term "Wholesale distributor" means a any~~
47 ~~person engaged, directly or indirectly, in the sale or~~
48 ~~distribution of motor vehicles to agents or to dealers.~~

49 ~~(3)(5) The term "Dealer" means a franchised motor vehicle~~
50 ~~dealer, as defined in s. 320.27(1)(c)1. any person who is~~



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51 ~~engaged in, or who intends to engage in the business of selling~~
52 ~~motor vehicles at retail in this state. The term "dealer" shall~~
53 ~~also include "retail agent."~~

54 (4) (6) The term "Finance company" means a ~~any~~ person
55 engaged in the business of financing the sale or lease of motor
56 vehicles, or engaged in the business of purchasing or acquiring
57 vehicle contracts ~~conditional bills of sale, or promissory~~
58 notes, either secured by vendor's lien or chattel mortgages, or
59 arising from the sale of motor vehicles in this state.

60 (8) "Third-party provider" means a provider of an
61 automotive related product that is not an affiliated finance
62 company, manufacturer, or wholesale distributor.

63 (9) "Vehicle contract" means a conditional sales contract,
64 retail installment sales contract, chattel mortgage, lease
65 agreement, promissory note, or any other financial obligation
66 arising from the retail sale or lease of a motor vehicle.

67 Section 2. Section 545.045, Florida Statutes, is created
68 to read:

69 545.045 Purchase or assignment of third-party financing.-

70 (1) When a vehicle contract contains a third-party
71 provider's automotive related product that is of similar nature,
72 scope, and quality to an automotive related product offered for
73 sale by an affiliated finance company or its related
74 manufacturer or wholesale distributor, that affiliated finance
75 company may not, solely because the vehicle contract contains a



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76 third party's automotive related product:

77 (a) Refuse to purchase or accept the assignment of the
78 vehicle contract from a dealer; or

79 (b) Charge a dealer an additional fee or surcharge for the
80 purchase of, or acceptance of the assignment of, the vehicle
81 contract.

82 (2) Factors in determining whether an automotive related
83 product is similar in nature, scope, and quality include, but
84 are not limited to, the financial capacity of the third-party
85 provider to meet all of its obligations, inclusive of any
86 contractual liability insurance policies, and the third-party
87 provider's history of compliance with any applicable state and
88 federal regulations.

89 (3) A violation of this section does not constitute a
90 criminal offense pursuant to s. 545.12.

91 Section 3. This act shall take effect July 1, 2014.