



238370

LEGISLATIVE ACTION

| Senate     | . | House |
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| Comm: RCS  | . |       |
| 03/05/2014 | . |       |
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The Committee on Banking and Insurance (Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

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

(a) Is affiliated with or controlled by a manufacturer or



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11 wholesale distributor through common ownership, officers,  
12 directors, or management; or

13 (b) Has a contractual agreement with a manufacturer or  
14 wholesale distributor to finance, via sale or lease, motor  
15 vehicles produced or distributed by such manufacturer or  
16 wholesale distributor.

17 (2) "Automotive related product" means a motor vehicle  
18 service agreement, as defined in s. 634.011, or a guaranteed  
19 asset protection product, as defined in s. 520.02, or other non-  
20 tangible ancillary product that is purchased or otherwise  
21 provided as part of the sale or lease of a motor vehicle by a  
22 dealer.

23 (6)(1) The term "Person" as used in this chapter means an  
24 any individual, firm, corporation, partnership, limited  
25 liability company, association, trustee, receiver, or assignee  
26 for the benefit of creditors.

27 (7)(2) The terms "Sell," "sold," "buy," or and "purchase,"  
28 includes as used in this chapter, include an exchange, barter,  
29 gift, or and offer to contract to sell or buy.

30 (5)(3) The term "Manufacturer" means a any person engaged,  
31 directly or indirectly, in the manufacture of motor vehicles.

32 (10)(4) The term "Wholesale distributor" means a any person  
33 engaged, directly or indirectly, in the sale or distribution of  
34 motor vehicles to agents or to dealers.

35 (3)(5) The term "Dealer" means a franchised motor vehicle  
36 dealer, as defined in s. 320.27(1)(c)1. any person who is  
37 engaged in, or who intends to engage in the business of selling  
38 motor vehicles at retail in this state. The term "dealer" shall  
39 also include "retail agent."



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40           ~~(4)-(6) The term "Finance company" means a any person~~  
41 engaged in the business of financing the sale or lease of motor  
42 vehicles, or engaged in the business of purchasing or acquiring  
43 vehicle contracts conditional bills of sale, or promissory  
44 notes, either secured by vendor's lien or chattel mortgages, or  
45 arising from the sale of motor vehicles in this state.

46           (8) "Third party provider" means a provider of an  
47 automotive related product that is not an affiliated finance  
48 company, manufacturer, or wholesale distributor.

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

53           Section 2. Section 545.045, Florida Statutes, is created to  
54 read:

55           545.045 Purchase or assignment of third-party financing.-

56           (1) When a vehicle contract contains a third party  
57 provider's automotive related product that is of similar nature,  
58 scope, and quality to an automotive related product offered for  
59 sale by an affiliated finance company or its related  
60 manufacturer or wholesale distributor, that affiliated finance  
61 company may not, solely because the vehicle contract contains a  
62 third party's automotive related product:

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

65           (b) Charge a dealer an additional fee or surcharge for the  
66 purchase of, or acceptance of the assignment of, the vehicle  
67 contract; or

68           (c) Offer to purchase or accept assignment of the vehicle



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69 contract from a dealer on less favorable terms than a vehicle  
70 contract that contains otherwise substantially similar credit  
71 risk, duration, and other terms.

72 (2) Factors in determining whether an automotive related  
73 product is similar in nature, scope, and quality include, but  
74 are not limited to, the financial capacity of the third party  
75 provider to meet all its obligations, inclusive of any  
76 contractual liability insurance policies, and the third party  
77 provider's history of compliance with any applicable state and  
78 federal regulations.

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

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

82  
83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85 Delete everything before the enacting clause  
86 and insert:

87 A bill to be entitled  
88 An act relating to the financing of motor vehicles;  
89 amending s. 545.01, F.S.; revising definitions;  
90 defining terms; creating s. 545.045, F.S.; prohibiting  
91 a finance company that is affiliated with or  
92 controlled by, or that has a contractual relationship  
93 with, a manufacturer or wholesale distributor from  
94 taking specified actions relating to certain finance  
95 obligations arising from the retail sale or lease of a  
96 motor vehicle that includes a third party's automotive  
97 related product; providing an effective date.