

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Tramont offered the following:

Amendment (with title amendment)

Remove lines 90-317 and insert:

6 product is terminated, the entity shall refund to the buyer all
 7 any unearned portions of the purchase price of fees paid for the
 8 contract unless the contract provides otherwise. A refund is not
 9 due to a consumer who receives a benefit under such product. In
 10 order to receive a refund, the buyer must notify the entity of
 11 the event terminating the contract and request a refund within
 12 90 days after the occurrence of the event terminating the
 13 contract. An entity may offer a buyer a contract that does not
 14 provide for a refund only if the entity also offers that buyer a
 15 bona fide option to purchase a comparable contract that provides

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16 for a refund. An entity may not deduct more than \$75 in
17 administrative fees from a refund made under this subsection.

18 (h) Guaranteed asset protection products may be cancelable
19 or noncancelable after a free-look period as defined in s.
20 520.152.

21 (i) If the termination of the guaranteed asset protection
22 product occurs because of a default under the retail installment
23 contract or contract for a loan, the repossession of the motor
24 vehicle associated with the retail installment contract or
25 contract for a loan, or any other termination of the retail
26 installment contract or contract for a loan, the entity may pay
27 any refund due directly to the holder or administrator and apply
28 the refund as a reduction of the amount owed under the retail
29 installment contract or contract for a loan, unless the buyer
30 can show that the retail installment contract has been paid in
31 full.

32 Section 3. Section 520.151, Florida Statutes, is created
33 to read:

34 520.151 Florida Vehicle Value Protection Agreements Act.—
35 Sections 520.151-520.156 may be cited as the "Florida Vehicle
36 Value Protection Agreements Act."

37 Section 4. Section 520.152, Florida Statutes, is created
38 to read:

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39 520.152 Definitions.—As used in ss. 520.151-520.156,
40 unless the context or subject matter otherwise requires, the
41 term:

42 (1) "Administrator" means the person who is responsible
43 for the administrative or operational function of managing
44 vehicle value protection agreements, including, but not limited
45 to, the adjudication of claims or benefit requests by contract
46 holders.

47 (2) "Commercial transaction" means a transaction in which
48 the motor vehicle subject to the transaction is used primarily
49 for business or commercial purposes.

50 (3) "Contract holder" means a person who is the purchaser
51 or holder of a vehicle value protection agreement.

52 (4) "Finance agreement" means a loan, retail installment
53 sales contract, or lease for the purchase, refinancing, or lease
54 of a motor vehicle.

55 (5) "Free-look period" means the period of time,
56 commencing on the effective date of the contract, during which
57 the buyer may cancel the contract for a full refund of the
58 purchase price. This period may not be shorter than 30 days.

59 (6) "Motor vehicle" has the same meaning as provided in s.
60 520.02.

61 (7) "Provider" means a person that is obligated to provide
62 a benefit under a vehicle value protection agreement. A provider

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63 may function as an administrator or retain the services of a
64 third-party administrator.

65 (8) "Vehicle value protection agreement" includes a
66 contractual agreement that provides a benefit toward either the
67 reduction of some or all of the contract holder's current
68 finance agreement deficiency balance or the purchase or lease of
69 a replacement motor vehicle or motor vehicle services upon the
70 occurrence of an adverse event to the motor vehicle, including,
71 but not limited to, loss, theft, damage, obsolescence,
72 diminished value, or depreciation. The term does not include
73 guaranteed asset protection products as defined in s. 520.02.
74 Such a product is not insurance for purposes of the Florida
75 Insurance Code.

76 Section 5. Section 520.153, Florida Statutes, is created
77 to read:

78 520.153 Requirements and prohibitions as to vehicle value
79 protection agreements.—

80 (1) Vehicle value protection agreements may be offered,
81 sold, or given to consumers in this state in compliance with
82 this act.

83 (2) Notwithstanding any other law, any amount charged or
84 financed for a vehicle value protection agreement is not
85 considered a finance charge or interest and must be separately
86 stated in the finance agreement and in the vehicle value
87 protection agreement.

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88 (3) The extension of credit, the terms of credit, or the
89 terms of the related motor vehicle sale or lease may not be
90 conditioned upon the consumer's payment for or financing of any
91 charge for a vehicle value protection agreement. However, a
92 vehicle value protection agreement may be discounted or given at
93 no charge in connection with the purchase of other noncredit
94 related goods or services.

95 (4) A provider may use an administrator or other designee
96 to administer a vehicle value protection agreement.

97 (5) A vehicle value protection agreement may not be sold
98 or given to any person unless he or she has been or will be
99 provided access to a copy of such vehicle value protection
100 agreement at a reasonable time after such vehicle value
101 protection agreement is sold or given.

102 (6) A vehicle value protection agreement may not be sold
103 or given if coverage is duplicative of another vehicle value
104 protection agreement sold or given to a person or duplicative of
105 a guaranteed asset protection product.

106 (7) Each provider shall do one of the following:

107 (a) Insure all of its vehicle value protection agreements
108 under a policy that pays or reimburses the contract holder in
109 the event the provider fails to perform its obligations under
110 the vehicle value protection agreement. The insurer must be
111 licensed or otherwise authorized or eligible to do business in
112 this state.

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113 (b) Maintain a funded reserve account for its obligations
114 under its contracts issued and outstanding in this state. The
115 reserves may not be less than 40 percent of gross consideration
116 received, less claims paid, on the sale of the vehicle value
117 protection agreement for all in-force contracts in this state.
118 The reserve must be placed in trust with the office and have a
119 financial security deposit valued at not less than 5 percent of
120 the gross consideration received, less claims paid, on the sale
121 of the vehicle value protection agreements for all vehicle value
122 protection agreements issued and in force in this state, but at
123 least \$25,000. The reserve account must consist of one of the
124 following:

- 125 1. A surety bond issued by an authorized surety.
- 126 2. Securities of the type eligible for deposit by insurers
127 as provided in s. 625.52.
- 128 3. Cash.
- 129 4. A letter of credit issued by a qualified financial
130 institution.

131 (c) Maintain, or together with its parent corporation
132 maintain, a net worth or stockholders' equity of \$100 million
133 and, upon request, provide the office with a copy of the
134 provider's or the provider's parent company's Form 10-K or Form
135 20-F filed with the Securities and Exchange Commission within
136 the last calendar year, or if the company does not file with the
137 Securities and Exchange Commission, a copy of the company's

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138 audited financial statements, which must show a net worth of the
139 provider or its parent company of at least \$100 million. If the
140 provider's parent company's Form 10-K, Form 20-F, or financial
141 statements are filed to meet the provider's financial security
142 requirement, the parent company must agree to guarantee the
143 obligations of the provider relating to vehicle value protection
144 agreements sold by the provider in this state.

145 (8) A financial security requirement other than those
146 imposed in subsection (7) may not be imposed on vehicle value
147 protection agreement providers.

148 Section 6. Section 520.154, Florida Statutes, is created
149 to read:

150 520.154 Disclosures.-

151 (1) A vehicle value protection agreement must disclose in
152 writing, in clear, understandable language, all of the
153 following:

154 (a) The name and address of the provider, contract holder,
155 and administrator, if any.

156 (b) The terms of the vehicle value protection agreement,
157 including, but not limited to, the purchase price to be paid by
158 the contract holder, if any, the requirements for eligibility
159 and conditions of coverage, and any exclusions.

160 (c) Whether the vehicle value protection agreement may be
161 canceled by the contract holder during a free-look period as
162 defined in s. 520.152, and that, in the event of cancellation,

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163 the contract holder is entitled to a full refund of the purchase
164 price, if any, so long as no benefits have been provided.

165 (d) The procedure the contract holder must follow, if any,
166 to obtain a benefit under the terms and conditions of the
167 vehicle value protection agreement, including, if applicable, a
168 telephone number, website, or mailing address where the contract
169 holder may apply for a benefit.

170 (e) Whether the vehicle value protection agreement is
171 cancelable after the free-look period and the conditions under
172 which it may be canceled, including the procedures for
173 requesting any refund of the unearned purchase price paid by the
174 contract holder. In the event that the agreement is cancelable,
175 it must include the methodology for calculating any refund due
176 of the unearned purchase price of the vehicle value protection
177 agreement.

178 (f) That the extension of credit, the terms of the credit,
179 or the terms of the related motor vehicle sale or lease may not
180 be conditioned upon the purchase of the vehicle value protection
181 agreement.

182 (2) A vehicle value protection agreement must state the
183 terms, restrictions, or conditions governing cancellation of the
184 vehicle value protection agreement before the termination or
185 expiration date of the vehicle value protection agreement by
186 either the provider or the contract holder. The provider of the
187 vehicle value protection agreement shall mail a written notice

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188 to the contract holder at the last known address of the contract
189 holder contained in the records of the provider at least 5 days
190 before cancellation by the provider, which notice must state the
191 effective date of the cancellation and the reason for the
192 cancellation. However, such prior notice is not required if the
193 reason for cancellation is nonpayment of the provider fee, a
194 material misrepresentation by the contract holder to the
195 provider or administrator, or a substantial breach of duties by
196 the contract holder relating to the covered motor vehicle or its
197 use. If a vehicle value protection agreement is canceled by the
198 provider for a reason other than nonpayment of the provider fee,
199 the provider must refund to the contract holder 100 percent of
200 the unearned pro rata provider fee paid by the contract holder,
201 if any. If coverage under the vehicle value protection agreement
202 continues after a claim, any refund may reflect a deduction for
203 claims paid and, at the discretion of the provider, an
204 administrative fee of not more than \$75.

205 Section 7. Section 520.155, Florida Statutes, is created
206 to read:

207 520.155 Commercial transactions exempt.—Sections 520.154
208 and 520.156 do not apply to vehicle value protection agreements
209 offered in connection with a commercial transaction.

210 Section 8. Section 520.156, Florida Statutes, is created
211 to read:

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212 520.156 Penalties.—A provider, an administrator, or any
213 other person who willfully and intentionally violates ss.
214 520.151-520.155 commits a noncriminal violation as defined in s.
215 775.08(3), punishable by a fine not to exceed \$500 per violation
216 and not more than \$10,000 in the aggregate for all violations of
217 a similar nature. For purposes of this section, the term
218 "violations of a similar nature" means violations that consist
219 of the same or similar course of conduct, action, or practice,
220 irrespective of the number of times the action, conduct, or
221 practice determined to be a violation of ss. 520.151-520.155
222 occurred.

223 Section 9. Section 520.157, Florida Statutes, is created
224 to read:

225 520.157 Excess wear and use waiver.—

226 (1) For purposes of this section, the term "excess wear
227 and use waiver" means a contractual agreement wherein a lessor
228 agrees, regardless of whether subject to a separate fee, to
229 cancel or waive all or part of amounts that may become due under
230 a lease agreement as a result of excess wear and use of a motor
231 vehicle, which agreement must be part of, or a separate addendum
232 to, the lease agreement. Such waivers may also cancel or waive
233 amounts due for excess mileage.

234 (2) A retail lessee may contract with a retail lessor for
235 an excess wear and use waiver in connection with a lease
236 agreement.

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237 (3) The terms of the related motor vehicle lease may not
238 be conditioned upon the consumer's payment for any excess wear
239 and use waiver. However, excess wear and use waivers may be
240 discounted or given at no charge in connection with the purchase
241 of other noncredit-related goods.

242 (4) A lease agreement that includes an excess wear and use
243 waiver must disclose all of the following:

244 (a) The total charge for the excess wear and use waiver.

245 (b) Any exclusions or limitations on the amount of excess
246 wear and use which may be waived under the excess wear and use
247 waiver.

248 (c) The terms, restrictions, or conditions governing
249 cancellation of the excess wear and use waiver before the
250 termination or expiration of the excess wear and use waiver,
251 which may include an administrative fee of not more than \$75.

252 (5) An excess wear and use waiver is not insurance for
253 purposes of the Florida Insurance Code.

254
255 -----
256 **T I T L E A M E N D M E N T**

257 Remove line 48 and insert:

258 authorizing a retail lessee to contract with a retail lessor for
259 an excess wear and use waiver; prohibiting conditioning the
260 terms of the consumer's motor vehicle lease on his or her
261 payment for any excess wear and use waiver; authorizing

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262 | discounting or giving the excess wear and use waiver at no
263 | charge under certain circumstances; requiring certain
264 | disclosures for a lease agreement that includes an excess wear
265 | and use waiver; providing construction; providing an effective
266 | date.