

1 A bill to be entitled
2 An act relating to asset protection products; amending
3 s. 520.02, F.S.; revising the definition of the term
4 "guaranteed asset protection product"; amending s.
5 520.07, F.S.; prohibiting certain entities from
6 deducting more than a specified amount in
7 administrative fees when providing a refund of a
8 guaranteed asset protection product; authorizing
9 guaranteed asset protection products to be cancelable
10 or noncancelable under certain circumstances;
11 authorizing certain entities to pay refunds directly
12 to the holder or administrator of a loan under certain
13 circumstances; creating s. 520.151, F.S.; providing a
14 short title; creating s. 520.152, F.S.; providing
15 definitions; creating s. 520.153, F.S.; authorizing
16 the offer, sale, or gift of vehicle value protection
17 agreements in compliance with a certain act;
18 specifying a requirement regarding the amount charged
19 or financed for a vehicle value protection agreement;
20 prohibiting the conditioning of credit offers or terms
21 for the sale or lease of a motor vehicle upon a
22 consumer's payment for or financing of any charge for
23 a vehicle value protection agreement; authorizing
24 discounting or giving the vehicle value protection
25 agreement at no charge under certain circumstances;

26 | authorizing providers to use an administrator or other
27 | designee for administration of vehicle value
28 | protection agreements; prohibiting vehicle value
29 | protection agreements from being sold under certain
30 | circumstances; specifying financial security
31 | requirements for providers; prohibiting additional
32 | financial security requirements from being imposed on
33 | providers; creating s. 520.154, F.S.; requiring
34 | vehicle value protection agreements to include certain
35 | written disclosures in clear and understandable
36 | language; requiring vehicle value protection
37 | agreements to state the terms, restrictions, or
38 | conditions governing cancellation by the provider or
39 | the contract holder; specifying requirements for
40 | notice by the provider, refund of fees, and deduction
41 | of fees if the agreement is canceled; creating s.
42 | 520.155, F.S.; providing an exemption for vehicle
43 | value protection agreements in connection with a
44 | commercial transaction; creating s. 520.156, F.S.;
45 | providing noncriminal penalties; defining the term
46 | "violations of a similar nature"; creating s. 520.157,
47 | F.S.; defining the term "excess wear and use waiver";
48 | authorizing a retail lessee to contract with a retail
49 | lessor for an excess wear and use waiver; prohibiting
50 | conditioning the terms of the consumer's motor vehicle

51 | lease on his or her payment for any excess wear and
 52 | use waiver; authorizing discounting or giving the
 53 | excess wear and use waiver at no charge under certain
 54 | circumstances; requiring certain disclosures for a
 55 | lease agreement that includes an excess wear and use
 56 | waiver; providing construction; providing an effective
 57 | date.

58 |

59 | Be It Enacted by the Legislature of the State of Florida:

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61 | Section 1. Subsection (7) of section 520.02, Florida
 62 | Statutes, is amended to read:

63 | 520.02 Definitions.—In this act, unless the context or
 64 | subject matter otherwise requires:

65 | (7) "Guaranteed asset protection product" means a loan,
 66 | lease, or retail installment contract term, or modification or
 67 | addendum to a loan, lease, or retail installment contract, under
 68 | which a creditor agrees with or without a separate charge, to
 69 | cancel or waive a customer's liability for payment of some or
 70 | all of the amount by which the debt exceeds the value of the
 71 | collateral that has incurred total physical damage or is the
 72 | subject of an unrecovered theft. A guaranteed asset protection
 73 | product may also provide, with or without a separate charge, a
 74 | benefit that waives a portion of, or provides a customer with a
 75 | credit towards, the purchase of a replacement motor vehicle.

76 Such a product is not insurance for purposes of the Florida
 77 Insurance Code. This subsection also applies to all guaranteed
 78 asset protection products issued before October 1, 2008.

79 Section 2. Paragraph (g) of subsection (11) of section
 80 520.07, Florida Statutes, is amended, and paragraphs (h) and (i)
 81 are added to that subsection, to read:

82 520.07 Requirements and prohibitions as to retail
 83 installment contracts.—

84 (11) In conjunction with entering into any new retail
 85 installment contract or contract for a loan, a motor vehicle
 86 retail installment seller as defined in s. 520.02, a sales
 87 finance company as defined in s. 520.02, or a retail lessor as
 88 defined in s. 521.003, and any assignee of such an entity, may
 89 offer, for a fee or otherwise, optional guaranteed asset
 90 protection products in accordance with this chapter. The motor
 91 vehicle retail installment seller, sales finance company, retail
 92 lessor, or assignee may not require the purchase of a guaranteed
 93 asset protection product as a condition for making the loan. In
 94 order to offer any guaranteed asset protection product, a motor
 95 vehicle retail installment seller, sales finance company, or
 96 retail lessor, and any assignee of such an entity, shall comply
 97 with the following:

98 (g) If a contract for a guaranteed asset protection
 99 product is terminated, the entity shall refund to the buyer all
 100 any unearned portions of the purchase price of ~~fees paid for~~ the

101 contract unless the contract provides otherwise. A refund is not
102 due to a consumer who receives a benefit under such product. In
103 order to receive a refund, the buyer must notify the entity of
104 the event terminating the contract and request a refund within
105 90 days after the occurrence of the event terminating the
106 contract. An entity may offer a buyer a contract that does not
107 provide for a refund only if the entity also offers that buyer a
108 bona fide option to purchase a comparable contract that provides
109 for a refund. An entity may not deduct more than \$75 in
110 administrative fees from a refund made under this subsection.

111 (h) Guaranteed asset protection products may be cancelable
112 or noncancelable after a free-look period as defined in s.
113 520.152.

114 (i) If the termination of the guaranteed asset protection
115 product occurs because of a default under the retail installment
116 contract or contract for a loan, the repossession of the motor
117 vehicle associated with the retail installment contract or
118 contract for a loan, or any other termination of the retail
119 installment contract or contract for a loan, the entity may pay
120 any refund due directly to the holder or administrator and apply
121 the refund as a reduction of the amount owed under the retail
122 installment contract or contract for a loan, unless the buyer
123 can show that the retail installment contract has been paid in
124 full.

125 Section 3. Section 520.151, Florida Statutes, is created

126 to read:

127 520.151 Florida Vehicle Value Protection Agreements Act.-
128 Sections 520.151-520.156 may be cited as the "Florida Vehicle
129 Value Protection Agreements Act."

130 Section 4. Section 520.152, Florida Statutes, is created
131 to read:

132 520.152 Definitions.-As used in ss. 520.151-520.156,
133 unless the context or subject matter otherwise requires, the
134 term:

135 (1) "Administrator" means the person who is responsible
136 for the administrative or operational function of managing
137 vehicle value protection agreements, including, but not limited
138 to, the adjudication of claims or benefit requests by contract
139 holders.

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

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

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

148 (5) "Free-look period" means the period of time,
149 commencing on the effective date of the contract, during which
150 the buyer may cancel the contract for a full refund of the

151 purchase price. This period may not be shorter than 30 days.

152 (6) "Motor vehicle" has the same meaning as provided in s.
 153 520.02.

154 (7) "Provider" means a person that is obligated to provide
 155 a benefit under a vehicle value protection agreement. A provider
 156 may function as an administrator or retain the services of a
 157 third-party administrator.

158 (8) "Vehicle value protection agreement" includes a
 159 contractual agreement that provides a benefit toward either the
 160 reduction of some or all of the contract holder's current
 161 finance agreement deficiency balance or the purchase or lease of
 162 a replacement motor vehicle or motor vehicle services upon the
 163 occurrence of an adverse event to the motor vehicle, including,
 164 but not limited to, loss, theft, damage, obsolescence,
 165 diminished value, or depreciation. The term does not include
 166 guaranteed asset protection products as defined in s. 520.02.
 167 Such a product is not insurance for purposes of the Florida
 168 Insurance Code.

169 Section 5. Section 520.153, Florida Statutes, is created
 170 to read:

171 520.153 Requirements and prohibitions as to vehicle value
 172 protection agreements.—

173 (1) Vehicle value protection agreements may be offered,
 174 sold, or given to consumers in this state in compliance with
 175 this act.

176 (2) Notwithstanding any other law, any amount charged or
177 financed for a vehicle value protection agreement is not
178 considered a finance charge or interest and must be separately
179 stated in the finance agreement and in the vehicle value
180 protection agreement.

181 (3) The extension of credit, the terms of credit, or the
182 terms of the related motor vehicle sale or lease may not be
183 conditioned upon the consumer's payment for or financing of any
184 charge for a vehicle value protection agreement. However, a
185 vehicle value protection agreement may be discounted or given at
186 no charge in connection with the purchase of other noncredit
187 related goods or services.

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

190 (5) A vehicle value protection agreement may not be sold
191 or given to any person unless he or she has been or will be
192 provided access to a copy of such vehicle value protection
193 agreement at a reasonable time after such vehicle value
194 protection agreement is sold or given.

195 (6) A vehicle value protection agreement may not be sold
196 or given if coverage is duplicative of another vehicle value
197 protection agreement sold or given to a person or duplicative of
198 a guaranteed asset protection product.

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

200 (a) Insure all of its vehicle value protection agreements

201 under a policy that pays or reimburses the contract holder in
 202 the event the provider fails to perform its obligations under
 203 the vehicle value protection agreement. The insurer must be
 204 licensed or otherwise authorized or eligible to do business in
 205 this state.

206 (b) Maintain a funded reserve account for its obligations
 207 under its contracts issued and outstanding in this state. The
 208 reserves may not be less than 40 percent of gross consideration
 209 received, less claims paid, on the sale of the vehicle value
 210 protection agreement for all in-force contracts in this state.
 211 The reserve must be placed in trust with the office and have a
 212 financial security deposit valued at not less than 5 percent of
 213 the gross consideration received, less claims paid, on the sale
 214 of the vehicle value protection agreements for all vehicle value
 215 protection agreements issued and in force in this state, but at
 216 least \$25,000. The reserve account must consist of one of the
 217 following:

- 218 1. A surety bond issued by an authorized surety.
- 219 2. Securities of the type eligible for deposit by insurers
 220 as provided in s. 625.52.
- 221 3. Cash.
- 222 4. A letter of credit issued by a qualified financial
 223 institution.

224 (c) Maintain, or together with its parent corporation
 225 maintain, a net worth or stockholders' equity of \$100 million

226 and, upon request, provide the office with a copy of the
227 provider's or the provider's parent company's Form 10-K or Form
228 20-F filed with the Securities and Exchange Commission within
229 the last calendar year, or if the company does not file with the
230 Securities and Exchange Commission, a copy of the company's
231 audited financial statements, which must show a net worth of the
232 provider or its parent company of at least \$100 million. If the
233 provider's parent company's Form 10-K, Form 20-F, or financial
234 statements are filed to meet the provider's financial security
235 requirement, the parent company must agree to guarantee the
236 obligations of the provider relating to vehicle value protection
237 agreements sold by the provider in this state.

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

241 Section 6. Section 520.154, Florida Statutes, is created
242 to read:

243 520.154 Disclosures.—

244 (1) A vehicle value protection agreement must disclose in
245 writing, in clear, understandable language, all of the
246 following:

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

249 (b) The terms of the vehicle value protection agreement,
250 including, but not limited to, the purchase price to be paid by

251 the contract holder, if any, the requirements for eligibility
252 and conditions of coverage, and any exclusions.

253 (c) Whether the vehicle value protection agreement may be
254 canceled by the contract holder during a free-look period as
255 defined in s. 520.152, and that, in the event of cancellation,
256 the contract holder is entitled to a full refund of the purchase
257 price, if any, so long as no benefits have been provided.

258 (d) The procedure the contract holder must follow, if any,
259 to obtain a benefit under the terms and conditions of the
260 vehicle value protection agreement, including, if applicable, a
261 telephone number, website, or mailing address where the contract
262 holder may apply for a benefit.

263 (e) Whether the vehicle value protection agreement is
264 cancelable after the free-look period and the conditions under
265 which it may be canceled, including the procedures for
266 requesting any refund of the unearned purchase price paid by the
267 contract holder. In the event that the agreement is cancelable,
268 it must include the methodology for calculating any refund due
269 of the unearned purchase price of the vehicle value protection
270 agreement.

271 (f) That the extension of credit, the terms of the credit,
272 or the terms of the related motor vehicle sale or lease may not
273 be conditioned upon the purchase of the vehicle value protection
274 agreement.

275 (2) A vehicle value protection agreement must state the

276 terms, restrictions, or conditions governing cancellation of the
277 vehicle value protection agreement before the termination or
278 expiration date of the vehicle value protection agreement by
279 either the provider or the contract holder. The provider of the
280 vehicle value protection agreement shall mail a written notice
281 to the contract holder at the last known address of the contract
282 holder contained in the records of the provider at least 5 days
283 before cancellation by the provider, which notice must state the
284 effective date of the cancellation and the reason for the
285 cancellation. However, such prior notice is not required if the
286 reason for cancellation is nonpayment of the provider fee, a
287 material misrepresentation by the contract holder to the
288 provider or administrator, or a substantial breach of duties by
289 the contract holder relating to the covered motor vehicle or its
290 use. If a vehicle value protection agreement is canceled by the
291 provider for a reason other than nonpayment of the provider fee,
292 the provider must refund to the contract holder 100 percent of
293 the unearned pro rata provider fee paid by the contract holder,
294 if any. If coverage under the vehicle value protection agreement
295 continues after a claim, any refund may reflect a deduction for
296 claims paid and, at the discretion of the provider, an
297 administrative fee of not more than \$75.

298 Section 7. Section 520.155, Florida Statutes, is created
299 to read:

300 520.155 Commercial transactions exempt.—Sections 520.154

301 and 520.156 do not apply to vehicle value protection agreements
 302 offered in connection with a commercial transaction.

303 Section 8. Section 520.156, Florida Statutes, is created
 304 to read:

305 520.156 Penalties.—A provider, an administrator, or any
 306 other person who willfully and intentionally violates ss.
 307 520.151-520.155 commits a noncriminal violation as defined in s.
 308 775.08(3), punishable by a fine not to exceed \$500 per violation
 309 and not more than \$10,000 in the aggregate for all violations of
 310 a similar nature. For purposes of this section, the term
 311 "violations of a similar nature" means violations that consist
 312 of the same or similar course of conduct, action, or practice,
 313 irrespective of the number of times the action, conduct, or
 314 practice determined to be a violation of ss. 520.151-520.155
 315 occurred.

316 Section 9. Section 520.157, Florida Statutes, is created
 317 to read:

318 520.157 Excess wear and use waiver.—

319 (1) For purposes of this section, the term "excess wear
 320 and use waiver" means a contractual agreement wherein a lessor
 321 agrees, regardless of whether subject to a separate fee, to
 322 cancel or waive all or part of amounts that may become due under
 323 a lease agreement as a result of excess wear and use of a motor
 324 vehicle, which agreement must be part of, or a separate addendum
 325 to, the lease agreement. Such waivers may also cancel or waive

326 amounts due for excess mileage.

327 (2) A retail lessee may contract with a retail lessor for
328 an excess wear and use waiver in connection with a lease
329 agreement.

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

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

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

338 (b) Any exclusions or limitations on the amount of excess
339 wear and use which may be waived under the excess wear and use
340 waiver.

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

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

347 Section 10. This act shall take effect October 1, 2024.