

By the Committees on Commerce and Tourism; and Banking and Insurance; and Senator Boyd

577-02656-24

2024902c2

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

577-02656-24

2024902c2

30 designee for administration of vehicle value
31 protection agreements; prohibiting vehicle value
32 protection agreements from being sold under certain
33 circumstances; specifying financial security
34 requirements for providers; prohibiting additional
35 financial security requirements from being imposed on
36 providers; creating s. 520.154, F.S.; requiring
37 vehicle value protection agreements to include certain
38 disclosures in writing, in clear and understandable
39 language; requiring vehicle value protection
40 agreements to state the terms, restrictions, or
41 conditions governing cancellation by the provider or
42 the contract holder; specifying requirements for
43 notice by the provider, refund of fees, and deduction
44 of fees in the event the vehicle value protection
45 agreement is canceled; creating s. 520.155, F.S.;
46 providing an exemption for vehicle value protection
47 agreements in connection with a commercial
48 transaction; creating s. 520.156, F.S.; providing
49 noncriminal penalties; defining the term "violations
50 of a similar nature"; creating s. 520.157, F.S.;
51 defining the term "excess wear and use waiver";
52 authorizing a retail lessee to contract with a retail
53 lessor for an excess wear and use waiver; prohibiting
54 conditioning the terms of the consumer's motor vehicle
55 lease on his or her payment for any excess wear and
56 use waiver; authorizing discounting or giving the
57 excess wear and use waiver at no charge under certain
58 circumstances; requiring certain disclosures for a

577-02656-24

2024902c2

59 lease agreement that includes an excess wear and use
60 waiver; providing construction; providing an effective
61 date.

62
63 Be It Enacted by the Legislature of the State of Florida:

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65 Section 1. Subsection (7) of section 520.02, Florida
66 Statutes, is amended to read:

67 520.02 Definitions.—In this act, unless the context or
68 subject matter otherwise requires:

69 (7) "Guaranteed asset protection product" means a loan,
70 lease, or retail installment contract term, or modification or
71 addendum to a loan, lease, or retail installment contract, under
72 which a creditor agrees, with or without a separate charge, to
73 cancel or waive a customer's liability for payment of some or
74 all of the amount by which the debt exceeds the value of the
75 collateral that has incurred total physical damage or is the
76 subject of an unrecovered theft. A guaranteed asset protection
77 product may also provide, with or without a separate charge, a
78 benefit that waives a portion of, or provides a customer with a
79 credit toward, the purchase of a replacement motor vehicle. Such
80 a product is not insurance for purposes of the Florida Insurance
81 Code. This subsection also applies to all guaranteed asset
82 protection products issued before October 1, 2008.

83 Section 2. Paragraph (g) of subsection (11) of section
84 520.07, Florida Statutes, is amended, and paragraphs (h) and (i)
85 are added to that subsection, to read:

86 520.07 Requirements and prohibitions as to retail
87 installment contracts.—

577-02656-24

2024902c2

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

102 (g) If a contract for a guaranteed asset protection product
103 is terminated, the entity shall refund to the buyer all ~~any~~
104 unearned portions of the purchase price of fees paid for the
105 contract unless the contract provides otherwise. A refund is not
106 due to a consumer who receives a benefit under such product. In
107 order to receive a refund, the buyer must notify the entity of
108 the event terminating the contract and request a refund within
109 90 days after the occurrence of the event terminating the
110 contract. An entity may offer a buyer a contract that does not
111 provide for a refund only if the entity also offers that buyer a
112 bona fide option to purchase a comparable contract that provides
113 for a refund. An entity may not deduct more than \$75 in
114 administrative fees from a refund made under this subsection.

115 (h) Guaranteed asset protection products may be cancelable
116 or noncancelable after a free-look period as defined in s.

577-02656-24

2024902c2

117 520.152.

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

129 Section 3. Section 520.151, Florida Statutes, is created to
130 read:

131 520.151 Florida Vehicle Value Protection Agreements Act.—
132 Sections 520.151-520.156 may be cited as the “Florida Vehicle
133 Value Protection Agreements Act.”

134 Section 4. Section 520.152, Florida Statutes, is created to
135 read:

136 520.152 Definitions.—As used in ss. 520.151-520.156, unless
137 the context or subject matter otherwise requires, the term:

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

142 (2) “Commercial transaction” means a transaction in which
143 the motor vehicle subject to the transaction is used primarily
144 for business or commercial purposes.

145 (3) “Contract holder” means a person who is the purchaser

577-02656-24

2024902c2

146 or holder of a vehicle value protection agreement.

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

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

154 (6) "Motor vehicle" has the same meaning as provided in s.
155 520.02.

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

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

171 Section 5. Section 520.153, Florida Statutes, is created to
172 read:

173 520.153 Requirements and prohibitions as to vehicle value
174 protection agreements.-

577-02656-24

2024902c2

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

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

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

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

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

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

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

202 (a) Insure all of its vehicle value protection agreements
203 under a policy that pays or reimburses the contract holder in

577-02656-24

2024902c2

204 the event the provider fails to perform its obligations under
205 the vehicle value protection agreement. The insurer must be
206 licensed or otherwise authorized or eligible to do business in
207 this state.

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

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

226 (c) Maintain, or together with its parent corporation
227 maintain, a net worth or stockholders' equity of \$100 million
228 and, upon request, provide the office with a copy of the
229 provider's or the provider's parent company's Form 10-K or Form
230 20-F filed with the Securities and Exchange Commission within
231 the last calendar year, or if the company does not file with the
232 Securities and Exchange Commission, a copy of the company's

577-02656-24

2024902c2

233 audited financial statements, which must show a net worth of the
234 provider or its parent company of at least \$100 million. If the
235 provider's parent company's Form 10-K, Form 20-F, or financial
236 statements are filed to meet the provider's financial security
237 requirement, the parent company must agree to guarantee the
238 obligations of the provider relating to vehicle value protection
239 agreements sold by the provider in this state.

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

243 Section 6. Section 520.154, Florida Statutes, is created to
244 read:

245 520.154 Disclosures.—

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

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

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

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

260 (d) The procedure the contract holder must follow, if any,
261 to obtain a benefit under the terms and conditions of the

577-02656-24

2024902c2

262 vehicle value protection agreement, including, if applicable, a
263 telephone number, website, or mailing address where the contract
264 holder may apply for a benefit.

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

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

277 (2) A vehicle value protection agreement must state the
278 terms, restrictions, or conditions governing cancellation of the
279 vehicle value protection agreement before the termination or
280 expiration date of the vehicle value protection agreement by
281 either the provider or the contract holder. The provider of the
282 vehicle value protection agreement shall mail a written notice
283 to the contract holder at the last known address of the contract
284 holder contained in the records of the provider at least 5 days
285 before cancellation by the provider, which notice must state the
286 effective date of the cancellation and the reason for the
287 cancellation. However, such prior notice is not required if the
288 reason for cancellation is nonpayment of the provider fee, a
289 material misrepresentation by the contract holder to the
290 provider or administrator, or a substantial breach of duties by

577-02656-24

2024902c2

291 the contract holder relating to the covered motor vehicle or its
292 use. If a vehicle value protection agreement is canceled by the
293 provider for a reason other than nonpayment of the provider fee,
294 the provider must refund to the contract holder 100 percent of
295 the unearned pro rata provider fee paid by the contract holder,
296 if any. If coverage under the vehicle value protection agreement
297 continues after a claim, any refund may reflect a deduction for
298 claims paid and, at the discretion of the provider, an
299 administrative fee of not more than \$75.

300 Section 7. Section 520.155, Florida Statutes, is created to
301 read:

302 520.155 Commercial transactions exempt.—Sections 520.154
303 and 520.156 do not apply to vehicle value protection agreements
304 offered in connection with a commercial transaction.

305 Section 8. Section 520.156, Florida Statutes, is created to
306 read:

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

318 Section 9. Section 520.157, Florida Statutes, is created to
319 read:

577-02656-24

2024902c2

320 520.157 Excess wear and use waiver.—

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

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

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

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

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

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

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

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

577-02656-24

2024902c2

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