

By the Committee on Banking and Insurance; and Senators Flores and Diaz de la Portilla

597-02193-14

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1 A bill to be entitled
2 An act relating to the financing of motor vehicles;
3 amending s. 545.01, F.S.; revising definitions;
4 defining terms; creating s. 545.045, F.S.; prohibiting
5 a finance company that is affiliated with or
6 controlled by, or that has a contractual relationship
7 with, a manufacturer or wholesale distributor from
8 taking specified actions relating to certain finance
9 obligations arising from the retail sale or lease of a
10 motor vehicle that includes a third party's automotive
11 related product; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

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

17 545.01 Definitions.—As used in this chapter, the term:

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

20 (a) Is affiliated with or controlled by a manufacturer or
21 wholesale distributor through common ownership, officers,
22 directors, or management; or

23 (b) Has a contractual agreement with a manufacturer or
24 wholesale distributor to finance, via sale or lease, motor
25 vehicles produced or distributed by such manufacturer or
26 wholesale distributor.

27 (2) "Automotive related product" means a motor vehicle
28 service agreement, as defined in s. 634.011, or a guaranteed
29 asset protection product, as defined in s. 520.02, or other non-

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30 tangible ancillary product that is purchased or otherwise
31 provided as part of the sale or lease of a motor vehicle by a
32 dealer.

33 ~~(6)(1) The term "Person" as used in this chapter means an~~
34 ~~any individual, firm, corporation, partnership, limited~~
35 ~~liability company, association, trustee, receiver, or assignee~~
36 ~~for the benefit of creditors.~~

37 ~~(7)(2) The terms "Sell," "sold," "buy," or and "purchase,"~~
38 ~~includes as used in this chapter, include an exchange, barter,~~
39 ~~gift, or and offer to contract to sell or buy.~~

40 ~~(5)(3) The term "Manufacturer" means a any person engaged,~~
41 ~~directly or indirectly, in the manufacture of motor vehicles.~~

42 ~~(10)(4) The term "Wholesale distributor" means a any person~~
43 ~~engaged, directly or indirectly, in the sale or distribution of~~
44 ~~motor vehicles to agents or to dealers.~~

45 ~~(3)(5) The term "Dealer" means a franchised motor vehicle~~
46 ~~dealer, as defined in s. 320.27(1)(c)1. any person who is~~
47 ~~engaged in, or who intends to engage in the business of selling~~
48 ~~motor vehicles at retail in this state. The term "dealer" shall~~
49 ~~also include "retail agent."~~

50 ~~(4)(6) The term "Finance company" means a any person~~
51 ~~engaged in the business of financing the sale or lease of motor~~
52 ~~vehicles, or engaged in the business of purchasing or acquiring~~
53 ~~vehicle contracts conditional bills of sale, or promissory~~
54 ~~notes, either secured by vendor's lien or chattel mortgages, or~~
55 ~~arising from the sale of motor vehicles in this state.~~

56 ~~(8) "Third party provider" means a provider of an~~
57 ~~automotive related product that is not an affiliated finance~~
58 ~~company, manufacturer, or wholesale distributor.~~

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

63 Section 2. Section 545.045, Florida Statutes, is created to
64 read:

65 545.045 Purchase or assignment of third-party financing.-

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

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

75 (b) Charge a dealer an additional fee or surcharge for the
76 purchase of, or acceptance of the assignment of, the vehicle
77 contract; or

78 (c) Offer to purchase or accept assignment of the vehicle
79 contract from a dealer on less favorable terms than a vehicle
80 contract that contains otherwise substantially similar credit
81 risk, duration, and other terms.

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 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

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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.