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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
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	.	

The Committee on Banking and Insurance (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 80 - 401
and insert:
protection products issued before October 1, 2008.

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

520.07 Requirements and prohibitions as to retail installment contracts.-



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11 (11) In conjunction with entering into any new retail
12 installment contract or contract for a loan, a motor vehicle
13 retail installment seller as defined in s. 520.02, a sales
14 finance company as defined in s. 520.02, or a retail lessor as
15 defined in s. 521.003, and any assignee of such an entity, may
16 offer, for a fee or otherwise, optional guaranteed asset
17 protection products in accordance with this chapter. The motor
18 vehicle retail installment seller, sales finance company, retail
19 lessor, or assignee may not require the purchase of a guaranteed
20 asset protection product as a condition for making the loan. In
21 order to offer any guaranteed asset protection product, a motor
22 vehicle retail installment seller, sales finance company, or
23 retail lessor, and any assignee of such an entity, shall comply
24 with the following:

25 (g) If a contract for a guaranteed asset protection product
26 is terminated, the entity shall refund to the buyer any unearned
27 fees paid for the contract unless the contract provides
28 otherwise. A refund is not due to a consumer who receives a
29 benefit under such product. In order to receive a refund, the
30 buyer must notify the entity of the event terminating the
31 contract and request a refund within 90 days after the
32 occurrence of the event terminating the contract. An entity may
33 offer a buyer a contract that does not provide for a refund only
34 if the entity also offers that buyer a bona fide option to
35 purchase a comparable contract that provides for a refund. An
36 entity may not deduct more than \$75 in administrative fees from
37 a refund made under this subsection.

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



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40 520.152.

41 (i) If the termination of the guaranteed asset protection
42 product occurs because of a default under the retail installment
43 contract or contract for a loan, the repossession of the motor
44 vehicle associated with the retail installment contract or
45 contract for a loan, or any other termination of the retail
46 installment contract or contract for a loan, the entity may pay
47 any refund due directly to the holder or administrator and apply
48 the refund as a reduction of the amount owed under the retail
49 installment contract or contract for a loan, unless the buyer
50 can show that the retail installment contract has been paid in
51 full.

52 Section 3. Section 520.151, Florida Statutes, is created to
53 read:

54 520.151 Florida Vehicle Value Protection Agreements Act.—
55 Sections 520.151-520.156 may be cited as the “Florida Vehicle
56 Value Protection Agreements Act.”

57 Section 4. Section 520.152, Florida Statutes, is created to
58 read:

59 520.152 Definitions.—As used in ss. 520.151-520.156, unless
60 the context or subject matter otherwise requires, the term:

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

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

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



69 or holder of a vehicle value protection agreement.

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

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

77 (6) "Motor vehicle" has the same meaning as provided in s.
78 520.02.

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

83 (8) "Vehicle value protection agreement" includes a
84 contractual agreement that provides a benefit toward either the
85 reduction of some or all of the contract holder's current
86 finance agreement deficiency balance or the purchase or lease of
87 a replacement motor vehicle or motor vehicle services upon the
88 occurrence of an adverse event to the motor vehicle, including,
89 but not limited to, loss, theft, damage, obsolescence,
90 diminished value, or depreciation. The term does not include
91 guaranteed asset protection products as defined in s. 520.02.
92 Such a product is not insurance for purposes of the Florida
93 Insurance Code.

94 Section 5. Section 520.153, Florida Statutes, is created to
95 read:

96 520.153 Requirements and prohibitions as to vehicle value
97 protection agreements.-



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98 (1) Vehicle value protection agreements may be offered,
99 sold, or given to consumers in this state in compliance with
100 this act.

101 (2) Notwithstanding any other law, any amount charged or
102 financed for a vehicle value protection agreement is not
103 considered a finance charge or interest and must be separately
104 stated in the finance agreement and in the vehicle value
105 protection agreement.

106 (3) The extension of credit, the terms of credit, or the
107 terms of the related motor vehicle sale or lease may not be
108 conditioned upon the consumer's payment for or financing of any
109 charge for a vehicle value protection agreement. However, a
110 vehicle value protection agreement may be discounted or given at
111 no charge in connection with the purchase of other noncredit-
112 related goods or services.

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

115 (5) A vehicle value protection agreement may not be sold to
116 any person unless he or she has been or will be provided access
117 to a copy of such vehicle value protection agreement at a
118 reasonable time after such vehicle value protection agreement is
119 sold.

120 (6) A vehicle value protection agreement may not be sold if
121 coverage is duplicative of another vehicle value protection
122 agreement sold to a person or duplicative of a guaranteed asset
123 protection product.

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

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



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127 the event the provider fails to perform its obligations under
128 the vehicle value protection agreement. The insurer must be
129 licensed or otherwise authorized or eligible to do business in
130 this state.

131 (b) Maintain a funded reserve account for its obligations
132 under its contracts issued and outstanding in this state. The
133 reserves may not be less than 40 percent of gross consideration
134 received, less claims paid, on the sale of the vehicle value
135 protection agreement for all in-force contracts in this state.
136 The reserve must be placed in trust with the office and have a
137 financial security deposit valued at not less than 5 percent of
138 the gross consideration received, less claims paid, on the sale
139 of the vehicle value protection agreements for all vehicle value
140 protection agreements issued and in force in this state, but at
141 least \$25,000. The reserve account must consist of one of the
142 following:

- 143 1. A surety bond issued by an authorized surety.
144 2. Securities of the type eligible for deposit by insurers
145 as provided in s. 625.52.
146 3. Cash.
147 4. A letter of credit issued by a qualified financial
148 institution.

149 (c) Maintain, or together with its parent corporation
150 maintain, a net worth or stockholders' equity of \$100 million
151 and, upon request, provide the office with a copy of the
152 provider's or the provider's parent company's Form 10-K or Form
153 20-F filed with the Securities and Exchange Commission within
154 the last calendar year, or if the company does not file with the
155 Securities and Exchange Commission, a copy of the company's



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156 audited financial statements, which must show a net worth of the
157 provider or its parent company of at least \$100 million. If the
158 provider's parent company's Form 10-K, Form 20-F, or financial
159 statements are filed to meet the provider's financial security
160 requirement, the parent company must agree to guarantee the
161 obligations of the provider relating to vehicle value protection
162 agreements sold by the provider in this state.

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

166 Section 6. Section 520.154, Florida Statutes, is created to
167 read:

168 520.154 Disclosures.—

169 (1) A vehicle value protection agreement must disclose in
170 writing, in clear, understandable language, all of the
171 following:

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

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

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

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



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

188 (e) Whether the vehicle value protection agreement is
189 cancelable after the free-look period and the conditions under
190 which it may be canceled, including the procedures for
191 requesting any refund of the unearned purchase price paid by the
192 contract holder. In the event that the agreement is cancelable,
193 it must include the methodology for calculating any refund due
194 of the unearned purchase price of the vehicle value protection
195 agreement.

196 (f) That the extension of credit, the terms of the credit,
197 or the terms of the related motor vehicle sale or lease may not
198 be conditioned upon the purchase of the vehicle value protection
199 agreement.

200 (2) A vehicle value protection agreement must state the
201 terms, restrictions, or conditions governing cancellation of the
202 vehicle value protection agreement before the termination or
203 expiration date of the vehicle value protection agreement by
204 either the provider or the contract holder. The provider of the
205 vehicle value protection agreement shall mail a written notice
206 to the contract holder at the last known address of the contract
207 holder contained in the records of the provider at least 5 days
208 before cancellation by the provider, which notice must state the
209 effective date of the cancellation and the reason for the
210 cancellation. However, such prior notice is not required if the
211 reason for cancellation is nonpayment of the provider fee, a
212 material misrepresentation by the contract holder to the
213 provider or administrator, or a substantial breach of duties by



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214 the contract holder relating to the covered motor vehicle or its
215 use. If a vehicle value protection agreement is canceled by the
216 provider for a reason other than nonpayment of the provider fee,
217 the provider must refund to the contract holder 100 percent of
218 the unearned pro rata provider fee paid by the contract holder,
219 if any. If coverage under the vehicle value protection agreement
220 continues after a claim, any refund may reflect a deduction for
221 claims paid and, at the discretion of the provider, an
222 administrative fee of not more than \$75.

223 Section 7. Section 520.155, Florida Statutes, is created to
224 read:

225 520.155 Commercial transactions exempt.—Sections 520.154
226 and 520.156 do not apply to vehicle value protection agreements
227 offered in connection with a commercial transaction.

228 Section 8. Section 520.156, Florida Statutes, is created to
229 read:

230 520.156 Penalties.—A provider, an administrator, or any
231 other person who willfully and intentionally violates ss.
232 520.151-520.155 commits a noncriminal violation as defined in s.
233 775.08(3), punishable by a fine not to exceed \$500 per violation
234 and not more than \$10,000 in the aggregate for all violations of
235 a similar nature. For purposes of this section, the term
236 “violations of a similar nature” means violations that consist
237 of the same or similar course of conduct, action, or practice,
238 irrespective of the number of times the action, conduct, or
239 practice determined to be a violation of ss. 520.151-520.155
240 occurred.

241 Section 9. Section 520.157, Florida Statutes, is created to
242 read:



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243 520.157 Excess wear and use waiver.-

244 (1) For purposes of this section, the term "excess wear and
245 use waiver" means a contractual agreement wherein a lessor
246 agrees, regardless of whether subject to a separate fee, to
247 cancel or waive all or part of amounts that may become due under
248 a lease agreement as a result of excess wear and use of a motor
249 vehicle, which agreement must be part of, or a separate addendum
250 to, the lease agreement. Such waivers may also cancel or waive
251 amounts due for excess mileage.

252

253 ===== T I T L E A M E N D M E N T =====

254 And the title is amended as follows:

255 Delete lines 47 - 50

256 and insert:

257 of a similar nature"; creating s. 520.157, F.S.;

258 defining the term "excess wear and use waiver";

259 authorizing a retail lessee