

By the Committee on Banking and Insurance; and Senator Boyd

597-02163-24

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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.; prohibiting  
6       certain entities from deducting more than a specified  
7       amount in administrative fees when providing a refund  
8       of a 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.; defining  
15      terms; creating s. 520.153, F.S.; authorizing the  
16      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

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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 disclosures in writing, 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 in the event the vehicle value protection  
42 agreement is canceled; creating s. 520.155, F.S.;  
43 providing an exemption for vehicle value protection  
44 agreements in connection with a commercial  
45 transaction; creating s. 520.156, F.S.; providing  
46 noncriminal penalties; defining the term "violations  
47 of a similar nature"; creating s. 520.157, F.S.;  
48 defining the term "excess wear and use waiver";  
49 authorizing a retail lessee to contract with a retail  
50 lessor for an excess wear and use waiver; prohibiting  
51 conditioning the terms of the consumer's motor vehicle  
52 lease on his or her payment for any excess wear and  
53 use waiver; authorizing discounting or giving the  
54 excess wear and use waiver at no charge under certain  
55 circumstances; requiring certain disclosures for a  
56 lease agreement that includes an excess wear and use  
57 waiver; providing construction; providing an effective  
58 date.

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

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

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

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

(11) In conjunction with entering into any new retail installment contract or contract for a loan, a motor vehicle retail installment seller as defined in s. 520.02, a sales

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

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

112 (h) Guaranteed asset protection products may be cancelable  
113 or noncancelable after a free-look period as defined in s.  
114 520.152.

115 (i) If the termination of the guaranteed asset protection  
116 product occurs because of a default under the retail installment

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117 contract or contract for a loan, the repossession of the motor  
118 vehicle associated with the retail installment contract or  
119 contract for a loan, or any other termination of the retail  
120 installment contract or contract for a loan, the entity may pay  
121 any refund due directly to the holder or administrator and apply  
122 the refund as a reduction of the amount owed under the retail  
123 installment contract or contract for a loan, unless the buyer  
124 can show that the retail installment contract has been paid in  
125 full.

126 Section 3. Section 520.151, Florida Statutes, is created to  
127 read:

128 520.151 Florida Vehicle Value Protection Agreements Act.—  
129 Sections 520.151-520.156 may be cited as the “Florida Vehicle  
130 Value Protection Agreements Act.”

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

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

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

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

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

144 (4) “Finance agreement” means a loan, retail installment  
145 sales contract, or lease for the purchase, refinancing, or lease

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146 of a motor vehicle.

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

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

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

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

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

170 520.153 Requirements and prohibitions as to vehicle value  
171 protection agreements.-

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

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

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

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

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

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

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

199       (a) Insure all of its vehicle value protection agreements  
200 under a policy that pays or reimburses the contract holder in  
201 the event the provider fails to perform its obligations under  
202 the vehicle value protection agreement. The insurer must be  
203 licensed or otherwise authorized or eligible to do business in

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204 this state.

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

217 1. A surety bond issued by an authorized surety.

218 2. Securities of the type eligible for deposit by insurers  
219 as provided in s. 625.52.

220 3. Cash.

221 4. A letter of credit issued by a qualified financial  
222 institution.

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



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233 statements are filed to meet the provider's financial security  
234 requirement, the parent company must agree to guarantee the  
235 obligations of the provider relating to vehicle value protection  
236 agreements sold by the provider in this state.

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

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

242 520.154 Disclosures.—

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

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

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

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

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

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

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

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

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291 the provider must refund to the contract holder 100 percent of  
292 the unearned pro rata provider fee paid by the contract holder,  
293 if any. If coverage under the vehicle value protection agreement  
294 continues after a claim, any refund may reflect a deduction for  
295 claims paid and, at the discretion of the provider, an  
296 administrative fee of not more than \$75.

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

299 520.155 Commercial transactions exempt.—Sections 520.154  
300 and 520.156 do not apply to vehicle value protection agreements  
301 offered in connection with a commercial transaction.

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

304 520.156 Penalties.—A provider, an administrator, or any  
305 other person who willfully and intentionally violates ss.  
306 520.151-520.155 commits a noncriminal violation as defined in s.  
307 775.08(3), punishable by a fine not to exceed \$500 per violation  
308 and not more than \$10,000 in the aggregate for all violations of  
309 a similar nature. For purposes of this section, the term  
310 “violations of a similar nature” means violations that consist  
311 of the same or similar course of conduct, action, or practice,  
312 irrespective of the number of times the action, conduct, or  
313 practice determined to be a violation of ss. 520.151-520.155  
314 occurred.

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

317 520.157 Excess wear and use waiver.—

318 (1) For purposes of this section, the term “excess wear and  
319 use waiver” means a contractual agreement wherein a lessor

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320 agrees, regardless of whether subject to a separate fee, to  
321 cancel or waive all or part of amounts that may become due under  
322 a lease agreement as a result of excess wear and use of a motor  
323 vehicle, which agreement must be part of, or a separate addendum  
324 to, the lease agreement. Such waivers may also cancel or waive  
325 amounts due for excess mileage.

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

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

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

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

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

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

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

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