

By Senator Boyd

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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"; amending s. 521.003, F.S.;
48 defining the term "excess wear and use waiver";
49 conforming a provision to changes made by the act;
50 creating s. 521.007, F.S.; authorizing a retail lessee
51 to contract with a retail lessor for an excess wear
52 and use waiver; prohibiting conditioning the terms of
53 the consumer's motor vehicle lease on his or her
54 payment for any excess wear and use waiver;
55 authorizing discounting or giving the excess wear and
56 use waiver at no charge under certain circumstances;
57 requiring certain disclosures for a lease agreement
58 that includes an excess wear and use waiver; providing

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59 construction; providing an effective date.

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

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

65 520.02 Definitions.—In this act, unless the context or
66 subject matter otherwise requires:

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

81 Section 2. Paragraph (g) of subsection (11) of section
82 520.07, Florida Statutes, is amended, and paragraphs (h) and (i)
83 are added to that subsection, to read:

84 520.07 Requirements and prohibitions as to retail
85 installment contracts.—

86 (11) In conjunction with entering into any new retail
87 installment contract or contract for a loan, a motor vehicle

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

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

113 (h) Guaranteed asset protection products may be cancelable
114 or noncancelable after a free-look period as defined in s.
115 520.152.

116 (i) If the termination of the guaranteed asset protection

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

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

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

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

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

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

144 (4) “Contract holder” means a person who is the purchaser
145 or holder of a vehicle value protection agreement.

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

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

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

155 (8) "Person" means an individual, a partnership, a
156 corporation, an association, or any other group, however
157 organized.

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

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

173 Section 5. Section 520.153, Florida Statutes, is created to
174 read:

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175 520.153 Requirements and prohibitions as to vehicle value
176 protection agreements.-

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

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

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

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

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

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

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

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204 (a) Insure all of its vehicle value protection agreements
205 under a policy that pays or reimburses the contract holder in
206 the event the provider fails to perform its obligations under
207 the vehicle value protection agreement. The insurer must be
208 licensed or otherwise authorized or eligible to do business in
209 this state.

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

- 222 1. A surety bond issued by an authorized surety.
- 223 2. Securities of the type eligible for deposit by insurers
224 as provided in s. 625.52.
- 225 3. Cash.
- 226 4. A letter of credit issued by a qualified financial
227 institution.
- 228 5. Another form of security prescribed by commission
229 regulation.

230 (c) Maintain, or together with its parent corporation
231 maintain, a net worth or stockholders' equity of \$100 million
232 and, upon request, provide the commission with a copy of the

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

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

247 Section 6. Section 520.154, Florida Statutes, is created to
248 read:

249 520.154 Disclosures.—

250 (1) A vehicle value protection agreement must disclose in
251 writing, in clear, understandable language, all of the
252 following:

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

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

259 (c) Whether the vehicle value protection agreement may be
260 canceled by the contract holder during a free-look period as
261 defined in s. 520.152, and that, in the event of cancellation,

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262 the contract holder is entitled to a full refund of the purchase
263 price, if any, so long as no benefits have been provided.

264 (d) The procedure the contract holder must follow, if any,
265 to obtain a benefit under the terms and conditions of the
266 vehicle value protection agreement, including, if applicable, a
267 telephone number, website, or mailing address where the contract
268 holder may apply for a benefit.

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

277 (f) That the extension of credit, the terms of the credit,
278 or the terms of the related motor vehicle sale or lease may not
279 be conditioned upon the purchase of the vehicle value protection
280 agreement.

281 (2) A vehicle value protection agreement must state the
282 terms, restrictions, or conditions governing cancellation of the
283 vehicle value protection agreement before the termination or
284 expiration date of the vehicle value protection agreement by
285 either the provider or the contract holder. The provider of the
286 vehicle value protection agreement shall mail a written notice
287 to the contract holder at the last known address of the contract
288 holder contained in the records of the provider at least 5 days
289 before cancellation by the provider, which notice must state the
290 effective date of the cancellation and the reason for the

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

304 Section 7. Section 520.155, Florida Statutes, is created to
305 read:

306 520.155 Commercial transactions exempt.—Sections 520.154
307 and 520.155 do not apply to vehicle value protection agreements
308 offered in connection with a commercial transaction.

309 Section 8. Section 520.156, Florida Statutes, is created to
310 read:

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

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320 practice determined to be a violation of ss. 520.151-520.155
321 occurred.

322 Section 9. Section 521.003, Florida Statutes, is amended to
323 read:

324 521.003 Definitions.—As used in ss. 521.001-521.007 ~~ss.~~
325 ~~521.001-521.006~~, the term:

326 (1) "Adjusted or net capitalized cost" means the
327 capitalized cost, less any capitalized cost-reduction payments
328 made by the retail lessee at the inception of the lease
329 agreement. The adjusted or net capitalized cost shall serve as
330 the basis for calculating the amount of the retail lessee's
331 periodic payment under the lease agreement.

332 (2) "Capitalized cost" means the agreed-upon total amount
333 which, after deducting any capitalized cost reductions, serves
334 as the basis for calculating the amount of the periodic payment
335 under the lease agreement. The capitalized cost may include,
336 without limitation:

- 337 (a) Taxes.
- 338 (b) Registration fees.
- 339 (c) License fees.
- 340 (d) Insurance charges.
- 341 (e) Charges for guaranteed auto protection or GAP coverage.
- 342 (f) Charges for service contracts and extended warranties.
- 343 (g) Fees and charges for accessories and for installing
344 accessories.
- 345 (h) Charges for delivery, service, and repair.
- 346 (i) Administrative fees, acquisition fees, and any ~~and all~~
347 fees or charges for providing services incidental to the lease
348 agreement.

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349 (j) The unpaid balance of any amount financed under an
350 outstanding motor vehicle loan agreement or motor vehicle retail
351 installment contract with respect to a motor vehicle used as a
352 trade-in.

353 (k) The unpaid portion of the early termination obligation
354 under an outstanding lease agreement.

355 (l) The first periodic payment due at the inception of the
356 lease agreement.

357 (3) "Capitalized cost reduction" means a payment made by
358 cash, check, credit card debit, net vehicle trade-in, rebate, or
359 other similar means in the nature of a down payment or credit,
360 made by the retail lessee at the inception of the lease
361 agreement, for the purpose of reducing the capitalized cost and
362 may ~~shall~~ not include any periodic payments received by the
363 retail lessor at the inception of the lease agreement.

364 (4) "Excess wear and use waiver" means a contractual
365 agreement wherein a lessor agrees, with or without a separate
366 charge, to cancel or waive all or part of amounts that may
367 become due under a lease agreement as a result of excessive wear
368 and use of a motor vehicle, which agreement must be part of, or
369 a separate addendum to, the lease agreement. Such waivers may
370 also cancel or waive amounts due for excess mileage.

371 (5) "Lease agreement" means a written agreement entered
372 into in this state for the transfer from a retail lessor to a
373 retail lessee of the right to possess and use a motor vehicle in
374 exchange for consideration for a scheduled term exceeding 4
375 months, whether or not the retail lessee has the option to
376 purchase or otherwise become the owner of the motor vehicle upon
377 expiration of the agreement. The term does not include an

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378 agreement which covers an absolute sale, a sale pending
379 approval, or a retail installment sale, including a transaction
380 or contract which is governed by the Motor Vehicle Retail Sales
381 Finance Act of Florida.

382 (6)~~(5)~~ "Lease transaction" means a presentation made to the
383 retail lessee concerning the motor vehicle, including a sales
384 presentation or a document presented to the retail lessee,
385 resulting in the execution of a lease agreement.

386 (7)~~(6)~~ "Motor vehicle" means a motor vehicle of the type
387 and kind required to be registered and titled under chapters 319
388 and 320, excluding a recreational vehicle, moped, motorcycle
389 powered by a motor with a displacement of 50 cubic centimeters
390 or less, or a mobile home.

391 (8)~~(7)~~ "Retail lessee" means an individual who executes a
392 lease agreement for a motor vehicle from a retail lessor
393 primarily for personal, family, or household purposes.

394 (9)~~(8)~~ "Retail lessor" means a person who regularly engages
395 in the business of selling or leasing motor vehicles and who
396 offers or arranges a lease agreement for a motor vehicle. The
397 term includes an agent or affiliate who acts on behalf of the
398 retail lessor and excludes any assignee of the lease agreement.

399 Section 10. Section 521.007, Florida Statutes, is created
400 to read:

401 521.007 Excess wear and use waiver.—

402 (1) A retail lessee may contract with a retail lessor for
403 an excess wear and use waiver in connection with a lease
404 agreement.

405 (2) The terms of the related motor vehicle lease may not be
406 conditioned upon the consumer's payment for any excess wear and

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407 use waiver. However, excess wear and use waivers may be
408 discounted or given at no charge in connection with the purchase
409 of other noncredit-related goods.

410 (3) A lease agreement that includes an excess wear and use
411 waver must disclose all of the following:

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

413 (b) Any exclusions or limitations on the amount of excess
414 wear and use which may be waived under the excess wear and use
415 waver.

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

420 (4) An excess wear and use waiver is not insurance for
421 purposes of the Florida Insurance Code.

422 Section 11. This act shall take effect October 1, 2024.