



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 616 (as reported without amendment)
Sponsor: Senator Tonya Schuitmaker
Committee: Regulatory Reform

(as passed by the Senate)

Date Completed: 4-30-12

RATIONALE

The Guaranteed Asset Protection Waiver Act, which was enacted in 2009 and took effect in July 2010, regulates the sale of guaranteed asset protection (GAP) waivers. These are contractual provisions in which a creditor agrees, for a separate charge, to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of total physical damage loss or unrecovered theft of a motor vehicle. A GAP waiver is a debt cancellation addendum, allowing a creditor to pass his or her asset liability on to the lender, and is not an insurance product. Debt cancellation is attractive to consumers because they can purchase a GAP waiver directly from the lender rather than a third party, and for a lower price than an insurance product offering a similar benefit. Some people believe that GAP waivers on automobile financing also should be available in the event of the borrower's death or disability.

CONTENT

The bill would amend the Guaranteed Asset Protection Waiver Act to include in the definition of "guaranteed asset protection waiver" a contractual agreement in which a creditor agrees, for a separate charge, to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of the borrower's death or disability.

("Creditor" means a person that extends credit to a borrower in connection with the purchase of a motor vehicle; an assignee of that person; a lessor of a motor vehicle; or an assignee of that lessor.)

MCL 492.23

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Debt cancellation addendums, such as GAP waivers, evidently have been widely used for auto damage and theft since 1998, and have been available in Michigan for a couple of years. Consumers buy these products for an extra charge when they finance a motor vehicle purchase or lease a vehicle, and they are protected against owing more to a creditor than the amount an insurer pays for the vehicle if it is totaled or stolen. Since GAP waivers are not insurance products, borrowers can buy them directly from the lender without going through a third party such as an insurer, and the cost of the debt protection is less than similar insurance policy coverage because there is no need for the seller to cover capital costs, commissions, reserve funds, or shareholder profits.

A few states apparently extend debt cancellation protection to cover the borrower's death or disability; Michigan should do so as well. By including in GAP waivers the cancellation or waiver of all or part of amounts due on an auto loan or lease in the event of the borrower's death or disability, the bill would make the

protections offered by these products available to more consumers in Michigan.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.