

# SENATE BILL NO. 343

May 23, 2023, Introduced by Senators HERTEL, OUTMAN, CAVANAGH, WOJNO, DAMOOSE and CHANG and referred to the Committee on Regulatory Affairs.

A bill to amend 2009 PA 229, entitled "Guaranteed asset protection waiver act," by amending the title and sections 1, 3, 5, 7, 9, and 11 (MCL 492.21, 492.23, 492.25, 492.27, 492.29, and 492.31), by adding sections 3a, 4, and 9a and parts 5 and 9, and by designating section 1 as part 1, section 3 as part 2, section 3a as part 3, sections 4, 5, 7, 9, and 9a as part 4, and section 11 as part 6; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

## 1 TITLE

2 An act to **allow and to** regulate ~~guaranteed asset~~ **the offering**  
 3 **of motor vehicle financial** protection waivers offered or provided  
 4 in connection with finance agreements for certain motor vehicles,  
 5 **products**; to provide for the powers and duties of certain state  
 6 governmental officers and entities; and to provide remedies.

## 7 PART 1

## 8 SHORT TITLE

9 Sec. 1. This act ~~shall be known and~~ may be cited as the  
 10 "~~guaranteed asset~~" **motor vehicle financial** protection waiver  
 11 **products** act".

## 12 PART 2

13 DEFINITIONS APPLICABLE TO MOTOR VEHICLE FINANCIAL PROTECTION  
 14 PRODUCTS

15 Sec. 3. As used in this act:

16 ~~(a) "Administrator" means a person, other than a creditor or~~  
 17 ~~insurer, that performs administrative or operational functions in~~  
 18 ~~connection with a guaranteed asset protection waiver program.~~

19 ~~(b) "Borrower" means a person that purchases, agrees to~~  
 20 ~~purchase, leases, or agrees to lease a motor vehicle. The term~~  
 21 ~~includes, but is not limited to, an installment buyer or a retail~~  
 22 ~~buyer.~~

23 ~~(c) "Commissioner" means the commissioner of the office of~~  
 24 ~~financial and insurance regulation in the department of energy,~~  
 25 ~~labor, and economic growth.~~

26 ~~(d) "Creditor" means a person that extends credit to a~~  
 27 ~~borrower in connection with the purchase of a motor vehicle; an~~  
 28 ~~assignee of that person; a lessor of a motor vehicle; or an~~  
 29 ~~assignee of that lessor. The term includes, but is not limited to,~~

1 ~~any of the following:~~

2 ~~(i) An installment seller that extends credit to an installment~~  
3 ~~buyer and any assignee to which that credit obligation is payable.~~

4 ~~(ii) An installment seller that leases a motor vehicle to an~~  
5 ~~installment buyer and any assignee to which the lease payments are~~  
6 ~~payable.~~

7 ~~(iii) A sales finance company that extends credit to an~~  
8 ~~installment buyer and any assignee to which that credit obligation~~  
9 ~~is payable.~~

10 ~~(iv) A retail seller that extends credit to a retail buyer and~~  
11 ~~any assignee to which that credit obligation is payable.~~

12 ~~(v) A retail seller that leases a motor vehicle to a retail~~  
13 ~~buyer and any assignee to which the lease payments are payable.~~

14 **(a) "Commercial retail installment transaction" or "commercial**  
15 **transaction" means that the motor vehicle that is the subject of**  
16 **the transaction will primarily be used for business purposes,**  
17 **rather than personal purposes.**

18 **(b) "Consumer" means an individual purchaser of a motor**  
19 **vehicle. Consumer includes any of the following, as applicable:**

20 **(i) A borrower, as that term is defined in section 4.**

21 **(ii) A contract owner, as that term is defined in section 10.**

22 **(c) "Department" means the department of attorney general.**

23 **(d) ~~(e)~~"Finance agreement" means a loan, lease, or**  
24 **installment sale agreement for a motor vehicle. ~~The term Finance~~**  
25 **agreement includes, but is not limited to, an installment sale**  
26 **contract, a retail installment contract, or a retail charge**  
27 **agreement.**

28 **(e) ~~(f)~~"Free look period" means the period of time during**  
29 **which a borrower may cancel a ~~guaranteed asset~~ motor vehicle**

1 **financial** protection ~~waiver~~ **product** without penalty, fees, or costs  
 2 to the borrower. A free look period ~~must begin~~ **begins** on the  
 3 effective date of the ~~guaranteed asset~~ **motor vehicle financial**  
 4 protection ~~waiver~~, and the term of a free look period **product and**  
 5 must be at least 30 days.

6 ~~(g) "Guaranteed asset protection waiver" means a contractual~~  
 7 ~~agreement in which a creditor agrees for a separate charge to~~  
 8 ~~cancel or waive all or part of amounts due on a borrower's finance~~  
 9 ~~agreement in the event of a total physical damage loss or~~  
 10 ~~unrecovered theft of a motor vehicle.~~

11 ~~(h) "Installment buyer" means that term as defined in section~~  
 12 ~~2 of the motor vehicle sales finance act, MCL 492.102.~~

13 **(f)** ~~(i)~~ "Installment sale contract" means that term as defined  
 14 in section 2 of the motor vehicle sales finance act, **1950 (Ex Sess)**  
 15 **PA 27**, MCL 492.102.

16 ~~(j) "Installment seller" means that term as defined in section~~  
 17 ~~2 of the motor vehicle sales finance act, MCL 492.102.~~

18 **(g)** ~~(k)~~ "Insurer" means an authorized insurer as defined in  
 19 section 108 of the insurance code of 1956, 1956 PA 218, MCL  
 20 500.108.

21 **(h)** ~~(l)~~ "Motor vehicle" means a self-propelled or towed ~~device~~  
 22 ~~that transports people or property~~ **vehicle that is designed** for  
 23 personal or commercial use. ~~The term~~ **Motor vehicle** includes, but is  
 24 not limited to, an automobile, truck, motorcycle, recreational  
 25 vehicle, all-terrain vehicle, **snowmobile**, camper, boat, or personal  
 26 watercraft, ~~or a motorcycle, boat, camper, or personal watercraft~~  
 27 **and any trailer related to those motor vehicles.** ~~The term does not~~  
 28 ~~include a device that moves on or is guided by a track or travels~~  
 29 ~~through the air.~~

1 ~~(m) "Motor vehicle sales finance act" means the motor vehicle~~  
 2 ~~sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.~~

3 (i) "Motor vehicle financial protection product" means an  
 4 agreement that protects a consumer's financial interest in the  
 5 consumer's current or future motor vehicle. Motor vehicle financial  
 6 protection product includes, but is not limited to, any of the  
 7 following:

8 (i) A debt waiver, as that term is defined in section 4.

9 (ii) A vehicle value protection agreement, as that term is  
 10 defined in section 10.

11 (j) ~~(n)~~ "Person" means an individual, limited liability  
 12 company, partnership, association, corporation, governmental  
 13 entity, or any other legal entity.

14 (k) ~~(o)~~ "Retail buyer" means that term as defined in section 2  
 15 of the retail installment sales act, **1966 PA 224**, MCL 445.852.

16 (l) ~~(p)~~ "Retail charge agreement" means that term as defined in  
 17 section 2 of the retail installment sales act, **1966 PA 224**, MCL  
 18 445.852.

19 (m) ~~(q)~~ "Retail installment contract" means that term as  
 20 defined in section 2 of the retail installment sales act, **1966 PA**  
 21 **224**, MCL 445.852.

22 ~~(r) "Retail installment sales act" means the retail~~  
 23 ~~installment sales act, 1966 PA 224, MCL 445.851 to 445.873.~~

24 (n) ~~(s)~~ "Retail seller" means that term as defined in section  
 25 2 of the retail installment sales act, **1966 PA 224**, MCL 445.852.

26 ~~(t) "Sales finance company" means that term as defined in~~  
 27 ~~section 2 of the motor vehicle sales finance act, MCL 492.102.~~

### 28 PART 3

### 29 REQUIREMENTS FOR OFFERING MOTOR VEHICLE FINANCIAL PROTECTION

## PRODUCTS

1  
2           Sec. 3a. (1) A motor vehicle financial protection product may  
3 be offered, sold, or given to a consumer in this state in  
4 accordance with this act.

5           (2) Notwithstanding any other provision of law, any amount  
6 charged or financed for a motor vehicle financial protection  
7 product is an authorized charge that must be separately stated and  
8 is not a finance charge or interest.

9           (3) The extension of credit, the terms of credit, and the  
10 terms of the related motor vehicle sale or lease must not be  
11 conditioned on the consumer's payment for or financing of any  
12 charge for a motor vehicle financial protection product. However, a  
13 motor vehicle financial protection product may be discounted or  
14 given at no charge in connection with the purchase of other  
15 noncredit-related goods or services.

## PART 4

## DEBT WAIVERS

16  
17  
18           Sec. 4. As used in this part:

19           (a) "Administrator" means a person, other than a creditor or  
20 insurer, that performs administrative or operational functions in  
21 connection with a debt waiver program.

22           (b) "Borrower" means a debtor, retail buyer, or lessee, under  
23 a finance agreement.

24           (c) "Creditor" means a person that is any of the following:

25           (i) The lender in a loan or credit transaction.

26           (ii) The lessor in a lease transaction.

27           (iii) A retail seller of motor vehicles.

28           (iv) The seller in a commercial retail installment transaction.

29           (v) An assignee of a person described in subparagraphs (i) to

1 (iv) to whom the credit obligation is payable.

2 (d) "Debt waiver", except as otherwise provided in section 9a,  
3 includes, but is not limited to, a guaranteed asset protection  
4 waiver, an excess wear and use waiver, and other products as  
5 approved by the department. As used in this subdivision:

6 (i) "Guaranteed asset protection waiver" means a contractual  
7 agreement in which a creditor agrees, with or without a separate  
8 charge, to cancel or waive all or part of amounts due on a  
9 borrower's finance agreement if there is a total physical damage  
10 loss or unrecovered theft of a motor vehicle. A guaranteed asset  
11 protection waiver may provide, with or without a separate charge, a  
12 benefit that waives an amount or that provides a borrower with a  
13 credit toward the purchase of a replacement motor vehicle.

14 (ii) "Excess wear and use waiver" means a contractual agreement  
15 in which a creditor agrees, with or without a separate charge, to  
16 cancel or waive all or part of amounts that may become due under a  
17 borrower's lease agreement as a result of excessive wear and use of  
18 a motor vehicle. An excess wear and use waiver may cancel or waive  
19 amounts due for excess mileage.

20 Sec. 5. (1) All of the following apply to offering ~~, selling,~~  
21 ~~or providing a guaranteed asset protection~~ **debt** ~~waiver to a~~  
22 ~~borrower in this state:~~

23 ~~(a) Beginning 180 days after the effective date of this act, a~~  
24 ~~creditor that offers, sells, or provides a guaranteed asset~~  
25 ~~protection waiver in this state must comply with this act.~~

26 ~~(b) A guaranteed asset protection waiver~~

27 (a) **A debt waiver** must be part of, or a separate addendum to,  
28 the finance agreement. ~~for the motor vehicle.~~

29 ~~(c) At the option of the creditor, a creditor may sell a~~

1 ~~guaranteed asset protection waiver for a single payment or may~~  
 2 ~~offer a monthly or periodic payment option for a guaranteed asset~~  
 3 ~~protection waiver.~~

4 ~~(d) Any cost to a borrower for a guaranteed asset protection~~  
 5 ~~waiver entered into in compliance with the truth in lending act, 15~~  
 6 ~~USC 1601 to 1667f, and the regulations promulgated under that act,~~  
 7 ~~12 CFR part 226, must be separately stated and is not considered a~~  
 8 ~~finance charge or interest.~~

9 ~~(b) (e)~~ Except as provided in subdivision ~~(f)~~, ~~an installment~~  
 10 ~~seller or (c)~~, **a** retail seller must insure its ~~guaranteed asset~~  
 11 ~~protection~~ **debt** waiver obligations under a contractual liability or  
 12 other insurance policy issued by an insurer. A creditor that is not  
 13 ~~an installment seller or a~~ retail seller may insure its ~~guaranteed~~  
 14 ~~asset protection~~ **debt** waiver obligations under a contractual  
 15 liability policy or other insurance policy issued by an insurer.  
 16 Any creditor may obtain an insurance policy described in this  
 17 subdivision directly, or an administrator may obtain that policy on  
 18 behalf of that creditor **to cover the creditor's or a retail**  
 19 **seller's obligations.**

20 ~~(c) (f)~~ ~~An installment seller or A~~ retail seller that is a  
 21 lessor of a motor vehicle is not required to insure its ~~guaranteed~~  
 22 ~~asset protection~~ **debt** waiver obligation on the leased vehicle under  
 23 subdivision ~~(e)~~. **(b)** .

24 ~~(g) A guaranteed asset protection~~

25 ~~(d) A debt~~ waiver contained in a finance agreement remains a  
 26 part of ~~that contract~~ **the finance agreement** if the creditor  
 27 assigns, sells, or transfers ~~that contract.~~ **the finance agreement.**

28 ~~(h) A creditor shall not condition an extension of credit, the~~  
 29 ~~term of credit, or the term of a related motor vehicle sale or~~



1 ~~lease on the purchase of a guaranteed asset protection waiver.~~

2       (e) ~~(i)~~ Any ~~A~~ creditor that offers guaranteed asset protection  
3 ~~wavers~~ **a debt waiver** must report all sales ~~to a designated person~~  
4 **a sale** of those ~~wavers,~~ **the waiver**, and forward any payments  
5 ~~received on those sales,~~ to the designated party, ~~if any,~~  
6 ~~prescribed in any applicable administrative services agreement,~~  
7 ~~contractual liability policy, other insurance policy, or other~~  
8 ~~specified program documents.~~ **person any money due to the designated**  
9 **person.**

10       (f) ~~(j)~~ A creditor or administrator that receives or holds  
11 money that belongs to an insurer ~~under the terms of a written~~  
12 ~~agreement for insurance described in subdivision (e)~~ must hold that  
13 money in a fiduciary capacity.

14       (2) All of the following apply to a contractual liability or  
15 other insurance policy described in subsection ~~(1)(e)~~: **(1) (b) :**

16       (a) A contractual liability or other insurance policy insuring  
17 a ~~guaranteed asset protection~~ **debt** waiver must state the obligation  
18 of the insurer to reimburse or pay to the creditor any amount the  
19 creditor is legally obligated to waive under the ~~guaranteed asset~~  
20 ~~protection~~ **debt** waiver. ~~issued by the creditor and purchased or~~  
21 ~~held by the borrower.~~

22       (b) Coverage under a contractual liability or other insurance  
23 policy insuring a ~~guaranteed asset protection~~ **debt** waiver must also  
24 cover any subsequent assignee if the finance agreement is assigned,  
25 sold, or transferred.

26       (c) Coverage under a contractual liability or other insurance  
27 policy insuring a ~~guaranteed asset protection~~ **debt** waiver must  
28 remain in effect unless canceled or terminated in compliance with  
29 the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

1 (d) The cancellation or termination of a contractual liability  
 2 or other insurance policy must not reduce the insurer's  
 3 responsibility for ~~guaranteed asset protection~~ **debt** waivers issued  
 4 by the creditor before the date of cancellation or termination and  
 5 for which the insurer has received premiums.

6 Sec. 7. A ~~guaranteed asset protection~~ **Except as otherwise**  
 7 **provided in section 9a, a debt** waiver must disclose, in writing and  
 8 in clear, understandable language that is easy to read, all of the  
 9 following: ~~, if applicable:~~

10 (a) The name and address of the initial creditor and the  
 11 borrower at the time of sale, and the identity of any administrator  
 12 if different from the creditor.

13 (b) The purchase price, **if any**, and the terms of the  
 14 ~~guaranteed asset protection~~ **debt** waiver, including, but not limited  
 15 to, the requirements for protection, conditions, or exclusions  
 16 associated with the ~~guaranteed asset protection~~ **debt** waiver.

17 (c) That the borrower may cancel the ~~guaranteed asset~~  
 18 ~~protection~~ **debt** waiver during the free look period specified in the  
 19 **debt** waiver, ~~;~~ and is entitled to a full refund of the purchase  
 20 price **paid by the borrower, if any**, if the borrower has not  
 21 received benefits under the waiver. ~~, or to any full or partial~~  
 22 ~~refund included in the waiver if the borrower has received benefits~~  
 23 ~~under the waiver.~~

24 (d) The procedure the borrower must follow, if any, to obtain  
 25 ~~guaranteed asset protection~~ **debt** waiver benefits under the terms  
 26 and conditions of the **debt** waiver, ~~and including, if applicable,~~ a  
 27 telephone number **or website** and address where the borrower may  
 28 apply for **debt** waiver benefits.

29 (e) Whether ~~or not~~ the borrower may cancel the ~~guaranteed~~

1 ~~asset protection~~**debt** waiver after the free look period ~~and~~, if  
 2 so, the conditions under which the borrower may cancel or terminate  
 3 ~~that the~~ waiver, ~~and including~~ the procedure the borrower must  
 4 follow to request any refund ~~due of~~ **amounts paid.**

5 (f) That ~~in order to~~ receive any refund due for the  
 6 cancellation of the ~~guaranteed asset protection~~**debt** waiver, ~~or the~~  
 7 ~~early termination of the finance agreement after the free look~~  
 8 ~~period,~~ the borrower, **in accordance with the terms of the debt**  
 9 **waiver,** must provide a written request ~~for a refund to cancel~~ to  
 10 the creditor, administrator, or other party named in the waiver.  
 11 ~~within 90 days after the cancellation of the guaranteed asset~~  
 12 ~~protection waiver or the occurrence of the event terminating the~~  
 13 ~~finance agreement.~~**If the cancellation of the debt waiver is because**  
 14 **of the early termination of the finance agreement and no benefit**  
 15 **has been or will be provided, the borrower, in accordance with the**  
 16 **terms of the debt waiver, must provide a written request to cancel**  
 17 **to the creditor, administrator, or other party named in the waiver**  
 18 **not later than 90 days after the occurrence of the event**  
 19 **terminating the finance agreement.**

20 (g) The methodology for calculating any refund of the unearned  
 21 purchase price of a ~~guaranteed asset protection~~**the debt** waiver, **if**  
 22 **any, that will be** due to a borrower ~~for the cancellation of a~~  
 23 ~~guaranteed asset protection~~**if the debt** waiver **is canceled** or early  
 24 ~~termination of the finance agreement~~ **is terminated early.**

25 (h) That a creditor may not condition an extension of credit,  
 26 the terms of that credit, or the terms of the related ~~finance~~  
 27 ~~agreement~~**motor vehicle sale or lease** on the purchase of a  
 28 ~~guaranteed asset protection~~**debt** waiver.

29 Sec. 9. All of the following apply ~~concerning to~~ the

1 cancellation of ~~guaranteed asset protection~~**debt** waivers:

2 (a) A creditor may offer a ~~guaranteed asset protection~~**debt**  
3 waiver agreement that is cancelable or not cancelable after the  
4 free look period. A ~~guaranteed asset protection~~**debt** waiver must  
5 provide that if a borrower cancels the **debt** waiver during the free  
6 look period, the borrower is entitled to a full refund of the  
7 ~~purchase price~~**amount the borrower paid, if any**, if the borrower  
8 has not received benefits under the waiver. ~~, or to any full or~~  
9 ~~partial refund included in the waiver if the borrower has received~~  
10 ~~benefits under the waiver.~~

11 (b) If a borrower cancels the ~~guaranteed asset protection~~**debt**  
12 waiver, or **if** the finance agreement is terminated **early**, after the  
13 free look period, the borrower may be entitled to a refund of any  
14 unearned portion of the purchase price, ~~of the waiver unless the~~  
15 ~~waiver provides otherwise. In order to~~**if any, less a cancellation**  
16 **fee of up to \$75.00, if no benefit has been or will be provided. To**  
17 receive a refund **due because of the borrower's cancellation of the**  
18 **debt waiver**, the borrower ~~, must~~ provide a written request to  
19 **cancel, in accordance with the terms of the debt waiver, to the**  
20 creditor ~~, or administrator. , or other party,~~**If the cancellation**  
21 **is because of the early termination of the finance agreement, the**  
22 **borrower, in accordance with the debt waiver agreement, must**  
23 **provide a written request to cancel to the creditor or**  
24 **administrator** within 90 days after the ~~cancellation of the waiver~~  
25 ~~or the occurrence of the event terminating the finance agreement. ,~~  
26 ~~that meets any applicable notice provisions of the waiver.~~

27 (c) If the cancellation of a ~~guaranteed asset protection~~**debt**  
28 waiver occurs as a result of a default under ~~a~~**the** finance  
29 agreement, the repossession of the motor vehicle associated with

1 the finance agreement, or any other termination of the finance  
 2 agreement, any refund due may be paid directly to the creditor or  
 3 administrator and applied as ~~set forth in subdivision (d).~~

4 ~~(d) A creditor may apply any cancellation refund received~~  
 5 ~~under subdivision (a), (b), or (c) as a reduction of the amount~~  
 6 owed under the finance agreement, unless the borrower can show that  
 7 the finance agreement has been paid in full.

8 **Sec. 9a. (1) This act does not apply to a debt waiver offered**  
 9 **by a state or federal bank, savings bank, or credit union in**  
 10 **accordance with the applicable state or federal law.**

11 **(2) Section 7 and part 6 do not apply to a debt waiver offered**  
 12 **in connection with a commercial transaction.**

#### 13 PART 5

#### 14 VEHICLE VALUE PROTECTION AGREEMENTS

15 **Sec. 10. As used in this part:**

16 **(a) "Administrator" means the person that may be responsible**  
 17 **for the administrative or operational function of vehicle value**  
 18 **protection agreements, including, but not limited to, the**  
 19 **adjudication of claims or benefit requests by contract owners.**

20 **(b) "Contract owner" means either of the following:**

21 **(i) The purchaser of a vehicle value protection agreement.**

22 **(ii) A person that has access to benefits under the terms and**  
 23 **conditions of a vehicle value protection agreement.**

24 **(c) "Provider" means a person that is obligated to provide a**  
 25 **benefit under a vehicle value protection agreement. A provider may**  
 26 **perform as an administrator or retain the services of a third-party**  
 27 **administrator.**

28 **(d) "Vehicle value protection agreement" includes a**  
 29 **contractual agreement that provides a benefit toward either the**

1 reduction of some or all of the contract owner's current finance  
2 agreement deficiency balance, or toward the purchase or lease of a  
3 replacement motor vehicle or motor vehicle services, on the  
4 occurrence of an adverse event to the motor vehicle, including, but  
5 not limited to, loss, theft, damage, obsolescence, diminished  
6 value, or depreciation. Vehicle value protection agreement may  
7 include an agreement such as a trade-in-credit agreement,  
8 diminished value agreement, depreciation benefit agreement, or  
9 other similarly named agreement. Vehicle value protection agreement  
10 does not include a debt waiver.

11 Sec. 10a. All of the following are requirements for offering  
12 vehicle value protection agreements:

13 (a) A provider may, but is not required to, use an  
14 administrator or other designee to be responsible for all of the  
15 administration of vehicle value protection agreements in accordance  
16 with this act.

17 (b) A vehicle value protection agreement must not be sold  
18 unless the contract owner has been or will be provided access to a  
19 copy of the vehicle value protection agreement.

20 (c) To assure the faithful performance of the provider's  
21 obligations to its contract owners, the provider is responsible for  
22 complying with 1 of the following:

23 (i) Insuring all of its vehicle value protection agreements  
24 under a reimbursement insurance policy that pays or reimburses in  
25 the event that the provider fails to perform the provider's  
26 obligations under the vehicle value protection agreement and that  
27 is issued by an insurer at the time the policy is filed with the  
28 department, and continuously after the time that the policy is  
29 filed, and complying with either of the following:

1 (A) Doing all of the following:

2 (I) Maintaining surplus as to policyholders and paid-in  
3 capital of \$15,000,000.00 or more.

4 (II) Annually filing copies of the insurer's financial  
5 statements and National Association of Insurance Commissioners  
6 annual statements and of the actuarial certification required by  
7 and filed in the insurer's state of domicile.

8 (B) Doing all of the following:

9 (I) Maintaining surplus as to policyholders and paid-in  
10 capital of less than \$15,000,000.00 but not less than  
11 \$10,000,000.00.

12 (II) Demonstrating to the satisfaction of the department that  
13 the insurer maintains a ratio of net written premiums, wherever  
14 written, to surplus as to policyholders and paid-in capital of not  
15 greater than 3 to 1.

16 (III) Annually filing copies of the insurer's audited  
17 financial statements and National Association of Insurance  
18 Commissioners annual statements and the actuarial certification  
19 required by and filed in the insurer's state of domicile.

20 (ii) Doing both of the following:

21 (A) Maintaining a funded reserve account for its obligations  
22 under its contracts issued and outstanding in this state. The  
23 reserves must not be less than 40% of gross consideration received,  
24 less claims paid, on the sale of the vehicle value protection  
25 agreements for all in-force contracts. The reserve account is  
26 subject to examination and review by the department.

27 (B) Placing in trust with the department a financial security  
28 deposit that has a value of 5% or more of the gross consideration  
29 received, less claims paid, on the sale of the vehicle value

1 protection agreements for all vehicle value protection agreements  
2 issued and in force, but not less than \$25,000.00, consisting of 1  
3 of the following:

4 (I) A surety bond issued by an authorized surety.

5 (II) Securities of the type eligible for deposit by insurers.

6 (III) Cash.

7 (IV) A letter of credit issued by a qualified financial  
8 institution.

9 (V) Another form of security prescribed by rules promulgated  
10 by the department in accordance with the administrative procedures  
11 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

12 (iii) Doing both of the following:

13 (A) Maintaining, alone or with the provider's parent company,  
14 a net worth or stockholders' equity of \$100,000,000.00.

15 (B) On request, providing the department with a copy of the  
16 provider's or the provider's parent company's most recent Form 10-K  
17 or Form 20-F filed with the Securities and Exchange Commission  
18 within the most recent calendar year before the request or, if the  
19 company does not file with the Securities and Exchange Commission,  
20 a copy of the provider's or the provider's parent company's audited  
21 financial statements that show a net worth of the provider or the  
22 provider's parent company of at least \$100,000,000.00. If the  
23 provider's parent company's Form 10-K, Form 20-F, or financial  
24 statements are filed to meet the provider's financial security  
25 requirement, the parent company must agree to guarantee the  
26 obligations of the provider relating to vehicle value protection  
27 agreements sold by the provider in this state.

28 (d) Except for the requirements in subdivision (c), no other  
29 financial security requirements are required for vehicle value



1 protection agreement providers.

2 Sec. 10b. Except as otherwise provided in section 10c, a  
3 vehicle value protection agreement must disclose in writing and in  
4 clear, understandable language that is easy to read, all of the  
5 following:

6 (a) The name and address of the provider, contract owner, and  
7 administrator, if any.

8 (b) The terms of the vehicle value protection agreement,  
9 including, but not limited to, the purchase price to be paid by the  
10 contract owner, if any, the requirements for eligibility,  
11 conditions of coverage, or exclusions.

12 (c) That the vehicle value protection agreement may be  
13 canceled by the contract owner during a free look period as  
14 specified in the vehicle value protection agreement, and if the  
15 agreement is so canceled, the contract owner is entitled to a full  
16 refund of the purchase price paid by the contract owner, if any, if  
17 no benefits have been provided.

18 (d) The procedure the contract owner must follow, if any, to  
19 obtain a benefit under the terms and conditions of the vehicle  
20 value protection agreement, including, if applicable, a telephone  
21 number or website and address where the contract owner may apply  
22 for a benefit.

23 (e) Whether the vehicle value protection agreement is  
24 cancellable after the free look period and the conditions under  
25 which it may be canceled, including, the procedures for requesting  
26 any refund of the unearned purchase price paid by the contract  
27 owner.

28 (f) If the vehicle value protection agreement is canceled, the  
29 methodology for calculating any refund of the unearned purchase

1 price of the vehicle value protection agreement that is due.

2 (g) That the extension of credit, the terms of the credit, and  
3 the terms of the related motor vehicle sale or lease may not be  
4 conditioned on the purchase of the vehicle value protection  
5 agreement.

6 (h) The terms, restrictions, or conditions governing  
7 cancellation of the vehicle value protection agreement before the  
8 termination or expiration date of the vehicle value protection  
9 agreement by either the provider or the contract owner. The  
10 provider of the vehicle value protection agreement shall mail a  
11 written notice to the contract owner at the last known address of  
12 the contract owner contained in the records of the provider not  
13 less than 5 days before cancellation by the provider. Prior notice  
14 is not required if the reason for cancellation is nonpayment of the  
15 provider fee, a material misrepresentation by the contract owner to  
16 the provider or administrator, or a substantial breach of duties by  
17 the contract owner relating to any underlying finance agreement or  
18 the covered product or its use. The notice must state the effective  
19 date of the cancellation and the reason for the cancellation. If a  
20 vehicle value protection agreement is canceled by the provider for  
21 a reason other than nonpayment of the provider fee, the provider  
22 must refund to the contract owner 100% of the unearned pro rata  
23 provider fee paid by the contract owner, if any. If coverage under  
24 the vehicle value protection agreement continues after a claim,  
25 claims paid may be deducted from any refund. A reasonable  
26 administrative fee may be charged by the provider up to \$75.00.

27 Sec. 10c. Section 10b and part 6 do not apply to a vehicle  
28 value protection agreement offered in connection with a commercial  
29 transaction.

**PART 6**

**ENFORCEMENT**

1  
2  
3       Sec. 11. ~~The commissioner~~ **Except as otherwise provided in**  
4 **sections 9a and 10c, the department** may take any action he or she  
5 **it** determines is necessary or appropriate to enforce this act and  
6 to protect ~~guaranteed asset~~ **motor vehicle financial** protection  
7 ~~waiver holders~~ **product consumers** in this state, ~~including, but not~~  
8 ~~limited to, doing any of the following after proper notice and an~~  
9 ~~opportunity for hearing under the administrative procedures act of~~  
10 ~~1969, 1969 PA 306, MCL 24.201 to 24.328:~~

11       (a) ~~Order a creditor, administrator, or any other person that~~  
12 ~~does not comply with this act to cease and desist from further~~  
13 ~~guaranteed asset protection waiver-related operations that violate~~  
14 ~~this act.~~

15       (b) ~~Assess an administrative fine of not more than \$500.00~~  
16 ~~against a person for a violation of this act. However, the~~  
17 ~~commissioner may not assess administrative fines under this act~~  
18 ~~against any person that in the aggregate are more than \$20,000.00~~  
19 ~~for multiple violations of a similar nature. For purposes of this~~  
20 ~~subdivision, "similar nature" means that the violations consist of~~  
21 ~~the same or a similar course of conduct, action, or practice,~~  
22 ~~regardless of the number of times that action, conduct, or practice~~  
23 ~~occurs.~~ **as provided under the Michigan consumer protection act, 1976**  
24 **PA 331, MCL 445.901 to 445.922.**

**PART 9**

**APPLICABILITY**

25  
26  
27       Sec. 14. (1) This act, as amended by the amendatory act that  
28 **added this section, applies to a motor vehicle financial protection**  
29 **product that becomes effective on or after 180 days after the**

1 effective date of the amendatory act that added this section.

2 (2) This act, as amended by the amendatory act that added this  
3 section, does not require any change to a debt waiver or vehicle  
4 value protection agreement that is effective before the date  
5 described in subsection (1).

6 Enacting section 1. Section 13 of the guaranteed asset  
7 protection waiver act, 2009 PA 229, MCL 492.33, is repealed.

8 Enacting section 2. This amendatory act does not take effect  
9 unless all of the following bills of the 102nd Legislature are  
10 enacted into law:

11 (a) Senate Bill No. 344.

12

13 (b) Senate Bill No. 345.

14

15 (c) Senate Bill No. 346.

16

17 (d) Senate Bill No. 347.

18