

GUARANTEED ASSET PROTECTION WAIVER ACT (EXCERPT)
Act 229 of 2009

***** 492.25.new THIS NEW SECTION IS EFFECTIVE JULY 7, 2010 *****

492.25.new Offering, selling, or providing guaranteed asset protection waiver; requirements; contractual liability or other insurance policy.

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

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

(b) A guaranteed asset protection waiver must be part of, or a separate addendum to, the finance agreement for the motor vehicle.

(c) At the option of the creditor, a creditor may sell a guaranteed asset protection waiver for a single payment or may offer a monthly or periodic payment option for a guaranteed asset protection waiver.

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

(e) Except as provided in subdivision (f), an installment seller or retail seller must insure its guaranteed asset protection waiver obligations under a contractual liability or other insurance policy issued by an insurer. A creditor that is not an installment seller or retail seller may insure its guaranteed asset protection waiver obligations under a contractual liability policy or other insurance policy issued by an insurer. Any creditor may obtain an insurance policy described in this subdivision directly, or an administrator may obtain that policy on behalf of that creditor.

(f) An installment seller or retail seller that is a lessor of a motor vehicle is not required to insure its guaranteed asset protection waiver obligation on the leased vehicle under subdivision (e).

(g) A guaranteed asset protection waiver contained in a finance agreement remains a part of that contract if the creditor assigns, sells, or transfers that contract.

(h) A creditor shall not condition an extension of credit, the term of credit, or the term of a related motor vehicle sale or lease on the purchase of a guaranteed asset protection waiver.

(i) Any creditor that offers guaranteed asset protection waivers must report all sales of those waivers, and forward any payments received on those sales, to the designated party, if any, prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

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

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

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

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

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

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

History: 2009, Act 229, Eff. July 7, 2010.