

**SUBSTITUTE FOR
HOUSE BILL NO. 5429**

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;~~



1 **products;** to provide for the powers and duties of certain state
2 governmental officers and entities; and to provide remedies.

3 **PART 1**

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

7 **PART 2**

8 **DEFINITIONS APPLICABLE TO MOTOR VEHICLE FINANCIAL PROTECTION**
9 **PRODUCTS**

10 Sec. 3. As used in this act:

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

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

18 ~~(c) "Commissioner" means the commissioner of the office of~~
19 ~~financial and insurance regulation in the department of energy,~~
20 ~~labor, and economic growth.~~

21 ~~(d) "Creditor" means a person that extends credit to a~~
22 ~~borrower in connection with the purchase of a motor vehicle; an~~
23 ~~assignee of that person; a lessor of a motor vehicle; or an~~
24 ~~assignee of that lessor. The term includes, but is not limited to,~~
25 ~~any of the following:~~

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

28 ~~(ii) An installment seller that leases a motor vehicle to an~~
29 ~~installment buyer and any assignee to which the lease payments are~~



1 ~~payable.~~

2 ~~(iii) A sales finance company that extends credit to an~~
 3 ~~installment buyer and any assignee to which that credit obligation~~
 4 ~~is payable.~~

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

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

9 (a) "Commercial retail installment transaction" or "commercial
 10 transaction" means that the motor vehicle that is the subject of
 11 the transaction will primarily be used for business purposes,
 12 rather than personal purposes.

13 (b) "Consumer" means an individual purchaser of a motor
 14 vehicle, and includes a borrower, as that term is defined in
 15 section 4, and a contract holder, as that term is defined in
 16 section 10, as applicable.

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

18 (d) ~~(e)~~ "Finance agreement" means a loan, lease, or
 19 installment sale agreement for a motor vehicle. The term includes,
 20 but is not limited to, an installment sale contract, a retail
 21 installment contract, or a retail charge agreement.

22 (e) ~~(f)~~ "Free look period" means the period of time during
 23 which a borrower may cancel a ~~guaranteed asset~~ **motor vehicle**
 24 **financial** protection ~~waiver~~ **product** without penalty, fees, or costs
 25 to the borrower. A free look period must begin on the effective
 26 date of the ~~guaranteed asset~~ **motor vehicle financial** protection
 27 ~~waiver~~, **product**, and the term of a free look period must be at
 28 least 30 days.

29 ~~(g) "Guaranteed asset protection waiver" means a contractual~~



1 ~~agreement in which a creditor agrees for a separate charge to~~
 2 ~~cancel or waive all or part of amounts due on a borrower's finance~~
 3 ~~agreement in the event of a total physical damage loss or~~
 4 ~~unrecovered theft of a motor vehicle.~~

5 ~~(h) "Installment buyer" means that term as defined in section~~
 6 ~~2 of the motor vehicle sales finance act, MCL 492.102.~~

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

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

12 **(g) (k)** "Insurer" means an authorized insurer as defined in
 13 section 108 of the insurance code of 1956, 1956 PA 218, MCL
 14 500.108.

15 **(h) (l)** "Motor vehicle" means a self-propelled or towed ~~device~~
 16 ~~that transports people or property~~ **vehicle designed** for personal or
 17 commercial use. The term includes, but is not limited to, an
 18 automobile, truck, motorcycle, recreational vehicle, all-terrain
 19 vehicle, **snowmobile**, camper, boat, ~~or~~ **and** personal watercraft ~~or~~
 20 **and** a motorcycle, boat, camper, or personal watercraft **related**
 21 trailer. ~~The term does not include a device that moves on or is~~
 22 ~~guided by a track or travels through the air.~~

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

25 **(i) "Motor vehicle financial protection product" means an**
 26 **agreement that protects a consumer's financial interest in the**
 27 **consumer's current or future motor vehicle, and includes, but is**
 28 **not limited to, a debt waiver, as that term is defined in section**
 29 **4, and a vehicle value protection agreement, as that term is**



1 **defined in section 10.**

2 (j) ~~(n)~~—"Person" means an individual, limited liability
3 company, partnership, association, corporation, governmental
4 entity, or any other legal entity.

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

7 (l) ~~(p)~~—"Retail charge agreement" means that term as defined in
8 section 2 of the retail installment sales act, **1966 PA 224**, MCL
9 445.852.

10 (m) ~~(q)~~—"Retail installment contract" means that term as
11 defined in section 2 of the retail installment sales act, **1966 PA**
12 **224**, MCL 445.852.

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

15 (n) ~~(s)~~—"Retail seller" means that term as defined in section
16 2 of the retail installment sales act, **1966 PA 224**, MCL 445.852.

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

19 **PART 3**

20 **REQUIREMENTS FOR OFFERING MOTOR VEHICLE FINANCIAL PROTECTION**

21 **PRODUCTS**

22 **Sec. 3a. (1) A motor vehicle financial protection product may**
23 **be offered, sold, or given to a consumer in this state in**
24 **compliance with this act.**

25 **(2) Notwithstanding any other provision of law, any amount**
26 **charged or financed for a motor vehicle financial protection**
27 **product is an authorized charge that must be separately stated and**
28 **is not to be considered a finance charge or interest.**

29 **(3) The extension of credit, the terms of credit, and the**



1 terms of the related motor vehicle sale or lease must not be
2 conditioned on the consumer's payment for or financing of any
3 charge for a motor vehicle financial protection product. However, a
4 motor vehicle financial protection product may be discounted or
5 given at no charge in connection with the purchase of other
6 noncredit-related goods or services.

7 PART 4

8 DEBT WAIVERS

9 Sec. 4. As used in this part:

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

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

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

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

17 (ii) The lessor in a lease transaction.

18 (iii) A retail seller of motor vehicles.

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

20 (v) An assignee of a person described in subparagraphs (i) to
21 (iv) to whom the credit obligation is payable.

22 (d) "Debt waiver" includes, but is not limited to, a
23 guaranteed asset protection waiver, an excess wear and use waiver,
24 and other products as approved by the department. As used in this
25 subdivision:

26 (i) "Guaranteed asset protection waiver" means a contractual
27 agreement in which a creditor agrees, with or without a separate
28 charge, to cancel or waive all or part of amounts due on a
29 borrower's finance agreement if there is a total physical damage



1 loss or unrecovered theft of a motor vehicle. A guaranteed asset
 2 protection waiver may also provide, with or without a separate
 3 charge, a benefit that waives an amount or that provides a borrower
 4 with a credit toward the purchase of a replacement motor vehicle.

5 (ii) "Excess wear and use waiver" means a contractual agreement
 6 in which a creditor agrees, with or without a separate charge, to
 7 cancel or waive all or part of amounts that may become due under a
 8 borrower's lease agreement as a result of excessive wear and use of
 9 a motor vehicle. An excess wear and use waiver may also cancel or
 10 waive amounts due for excess mileage.

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

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

17 ~~(a) (b)~~ **A debt waiver, including but not limited to a**
 18 **guaranteed asset protection waiver or excess wear and use waiver,**
 19 **must be part of, or a separate addendum to, the finance agreement.**
 20 **for the motor vehicle.**

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

25 ~~(d) Any cost to a borrower for a guaranteed asset protection~~
 26 ~~waiver entered into in compliance with the truth in lending act, 15~~
 27 ~~USC 1601 to 1667f, and the regulations promulgated under that act,~~
 28 ~~12 CFR part 226, must be separately stated and is not considered a~~
 29 ~~finance charge or interest.~~



1 **(b)** ~~(e)~~ Except as provided in subdivision ~~(f)~~, ~~an installment~~
 2 ~~seller or (c)~~, a retail seller must insure its ~~guaranteed asset~~
 3 ~~protection-debt~~ waiver obligations under a contractual liability or
 4 other insurance policy issued by an insurer. A creditor that is not
 5 ~~an installment seller or a~~ retail seller may insure its ~~guaranteed~~
 6 ~~asset protection-debt~~ waiver obligations under a contractual
 7 liability policy or other insurance policy issued by an insurer.
 8 Any creditor may obtain an insurance policy described in this
 9 subdivision directly, or an administrator may obtain that policy on
 10 behalf of that creditor **to cover the creditor's or a retail**
 11 **seller's obligations.**

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

16 **(d)** ~~(g)~~ A ~~guaranteed asset protection-debt~~ waiver contained in
 17 a ~~finance agreement~~ remains a part of that contract **the finance**
 18 **agreement** if the creditor assigns, sells, or transfers that
 19 contract. **the finance agreement.**

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

23 **(e)** ~~(i)~~ Any ~~A~~ creditor that offers ~~guaranteed asset protection~~
 24 ~~waivers a debt waiver~~ must report all sales **to a designated person**
 25 **a sale** of those waivers, **the waiver**, and forward any payments
 26 received on those sales, to the designated party, if any,
 27 prescribed in any applicable administrative services agreement,
 28 contractual liability policy, other insurance policy, or other
 29 specified program documents. **person any money due to the designated**



1 **person.**

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

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

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

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

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

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

27 Sec. 7. A ~~guaranteed asset protection~~ **debt** waiver must
28 disclose, in writing and in clear, understandable language that is
29 easy to read, all of the following: ~~if applicable:~~



1 (a) The name and address of the initial creditor and the
2 borrower at the time of sale, and the identity of any administrator
3 if different from the creditor.

4 (b) The purchase price, **if any**, and the terms of the
5 ~~guaranteed asset protection debt~~ waiver, including ~~,~~ but not
6 limited to ~~,~~ the requirements for protection, conditions, or
7 exclusions associated with the ~~guaranteed asset protection debt~~
8 waiver.

9 (c) That the borrower may cancel the ~~guaranteed asset~~
10 ~~protection debt~~ waiver during the free look period specified in the
11 ~~debt~~ waiver, ~~;~~ and is entitled to a full refund of the purchase
12 price **paid by the borrower, if any**, if the borrower has not
13 received benefits under the waiver. ~~,~~ ~~or to any full or partial~~
14 ~~refund included in the waiver if the borrower has received benefits~~
15 ~~under the waiver.~~

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

21 (e) Whether ~~or not~~ the borrower may cancel the ~~guaranteed~~
22 ~~asset protection debt~~ waiver after the free look period ~~,~~ **and**, if
23 so, the conditions under which the borrower may cancel or terminate
24 ~~that the~~ waiver, ~~,~~ **and including** the procedure the borrower must
25 follow to request any refund ~~due of amounts paid.~~

26 (f) That ~~in order to~~ receive any refund due for the
27 cancellation of the ~~guaranteed asset protection debt~~ waiver, ~~or the~~
28 ~~early termination of the finance agreement after the free look~~
29 ~~period,~~ the borrower, **in accordance with the terms of the debt**



1 **waiver**, must provide a written request ~~for a refund to cancel~~ to
 2 the creditor, administrator, or other party named in the waiver.
 3 ~~within 90 days after the cancellation of the guaranteed asset~~
 4 ~~protection waiver or the occurrence of the event terminating the~~
 5 ~~finance agreement.~~ **If the cancellation of the debt waiver is because**
 6 **of the early termination of the finance agreement and no benefit**
 7 **has been or will be provided, the borrower, in accordance with the**
 8 **terms of the debt waiver, must provide a written request to cancel**
 9 **to the creditor, administrator, or other party named in the waiver**
 10 **not later than 90 days after the occurrence of the event**
 11 **terminating the finance agreement.**

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

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

21 Sec. 9. All of the following apply ~~concerning to~~ the
 22 cancellation of ~~guaranteed asset protection~~ **debt** waivers:

23 (a) A creditor may offer a ~~guaranteed asset protection~~ **debt**
 24 waiver agreement that is cancelable or not cancelable after the
 25 free look period. A ~~guaranteed asset protection~~ **debt** waiver must
 26 provide that if a borrower cancels the **debt** waiver during the free
 27 look period, the borrower is entitled to a full refund of the
 28 ~~purchase price~~ **amount the borrower paid, if any,** if the borrower
 29 has not received benefits under the waiver. ~~, or to any full or~~



1 ~~partial refund included in the waiver if the borrower has received~~
 2 ~~benefits under the waiver.~~

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

19 (c) If the cancellation of a ~~guaranteed asset protection debt~~
 20 waiver occurs as a result of a default under ~~a~~ **the** finance
 21 agreement, the repossession of the motor vehicle associated with
 22 the finance agreement, or any other termination of the finance
 23 agreement, any refund due may be paid directly to the creditor or
 24 administrator and applied ~~as set forth in subdivision (d).~~

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

29 **Sec. 9a. (1) This act does not apply to a debt waiver offered**



1 by a state or federal bank, savings bank, or credit union in
2 compliance with the applicable state or federal law.

3 (2) Section 5(1)(d) and part 6 do not apply to a debt waiver
4 offered in connection with a commercial transaction.

5 PART 5

6 VEHICLE VALUE PROTECTION AGREEMENTS

7 Sec. 10. As used in this part:

8 (a) "Administrator" means the person who may be responsible
9 for the administrative or operational function of vehicle value
10 protection agreements, including but not limited to the
11 adjudication of claims or benefit requests by contract holders.

12 (b) "Contract holder" means a person who is the purchaser or
13 holder of a vehicle value protection agreement.

14 (c) "Provider" means a person that is obligated to provide a
15 benefit under a vehicle value protection agreement. A provider may
16 perform as an administrator or retain the services of a third-party
17 administrator.

18 (d) "Vehicle value protection agreement" includes a
19 contractual agreement that provides a benefit toward either the
20 reduction of some or all of the contract holder's current finance
21 agreement deficiency balance, or toward the purchase or lease of a
22 replacement motor vehicle or motor vehicle services, on the
23 occurrence of an adverse event to the motor vehicle, including but
24 not limited to loss, theft, damage, obsolescence, diminished value,
25 or depreciation. Vehicle value protection agreement may include an
26 agreement such as, but not limited to, a trade-in-credit agreement,
27 diminished value agreement, depreciation benefit agreement, or
28 other similarly named agreement. Vehicle value protection agreement
29 does not include a debt waiver.



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

3 (a) A provider may, but is not required to, use an
4 administrator or other designee to be responsible for all of the
5 administration of vehicle value protection agreements in compliance
6 with this act.

7 (b) A vehicle value protection agreement must not be sold
8 unless the contract holder has been or will be provided access to a
9 copy of the vehicle value protection agreement.

10 (c) To assure the faithful performance of the provider's
11 obligations to its contract holders, the provider must be
12 responsible for complying with 1 of the following:

13 (i) Insuring all of its vehicle value protection agreements
14 under a reimbursement insurance policy issued by an insurer at the
15 time the policy is filed with the department, and continuously
16 after the time the policy is filed complying with either of the
17 following:

18 (A) Doing all of the following:

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

21 (II) Annually filing copies of the insurer's financial
22 statements and National Association of Insurance Commissioners
23 annual statements and of the actuarial certification required by
24 and filed in the insurer's state of domicile.

25 (B) Doing all of the following:

26 (I) Maintaining surplus as to policyholders and paid-in
27 capital of less than \$15,000,000.00 but not less than
28 \$10,000,000.00.

29 (II) Demonstrating to the satisfaction of the department that



1 the insurer maintains a ratio of net written premiums, wherever
2 written, to surplus as to policyholders and paid-in capital of not
3 greater than 3 to 1.

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

8 (ii) Doing both of the following:

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

15 (B) Placing in trust with the department a financial security
16 deposit that has a value of 5% or more of the gross consideration
17 received, less claims paid, on the sale of the vehicle value
18 protection agreements for all vehicle value protection agreements
19 issued and in force, but not less than \$25,000.00, consisting of 1
20 of the following:

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

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

23 (III) Cash.

24 (IV) A letter of credit issued by a qualified financial
25 institution.

26 (V) Another form of security prescribed by rules promulgated
27 by the department.

28 (iii) Doing both of the following:

29 (A) Maintaining, alone or with the provider's parent company,



1 a net worth or stockholders' equity of \$100,000,000.00.

2 (B) On request, providing the department with a copy of the
3 provider's or the provider's parent company's most recent Form 10-K
4 or Form 20-F filed with the Securities and Exchange Commission
5 within the most recent calendar year before the request or, if the
6 company does not file with the Securities and Exchange Commission,
7 a copy of the provider's or the provider's parent company's audited
8 financial statements that show a net worth of the provider or the
9 provider's parent company of at least \$100,000,000.00. If the
10 provider's parent company's Form 10-K, Form 20-F, or financial
11 statements are filed to meet the provider's financial security
12 requirement, the parent company must agree to guarantee the
13 obligations of the provider relating to vehicle value protection
14 agreements sold by the provider in this state.

15 (d) Except for the requirements in subdivision (c), no other
16 financial security requirements must be required for vehicle value
17 protection agreement providers.

18 Sec. 10b. A vehicle value protection agreement must disclose
19 in writing and in clear, understandable language that is easy to
20 read, all of the following:

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

23 (b) The terms of the vehicle value protection agreement,
24 including but not limited to the purchase price to be paid by the
25 contract holder, if any, the requirements for eligibility,
26 conditions of coverage, or exclusions.

27 (c) That the vehicle value protection agreement may be
28 canceled by the contract holder during a free look period as
29 specified in the vehicle value protection agreement, and if the



1 agreement is so canceled, the contract holder will be entitled to a
2 full refund of the purchase price paid by the contract holder, if
3 any, if no benefits have been provided.

4 (d) The procedure the contract holder must follow, if any, to
5 obtain a benefit under the terms and conditions of the vehicle
6 value protection agreement, including, if applicable, a telephone
7 number or website and address where the contract holder may apply
8 for a benefit.

9 (e) Whether the vehicle value protection agreement is
10 cancellable after the free look period and the conditions under
11 which it may be canceled including the procedures for requesting
12 any refund of the unearned purchase price paid by the contract
13 holder.

14 (f) If the vehicle value protection agreement is canceled, the
15 methodology for calculating any refund of the unearned purchase
16 price of the vehicle value protection agreement that is due.

17 (g) That neither the extension of credit, the terms of the
18 credit, nor the terms of the related motor vehicle sale or lease
19 may be conditioned on the purchase of the vehicle value protection
20 agreement.

21 (h) The terms, restrictions, or conditions governing
22 cancellation of the vehicle value protection agreement before the
23 termination or expiration date of the vehicle value protection
24 agreement by either the provider or the contract holder. The
25 provider of the vehicle value protection agreement shall mail a
26 written notice to the contract holder at the last known address of
27 the contract holder contained in the records of the provider not
28 less than 5 days before cancellation by the provider. Prior notice
29 is not required if the reason for cancellation is nonpayment of the



1 provider fee, a material misrepresentation by the contract holder
 2 to the provider or administrator, or a substantial breach of duties
 3 by the contract holder relating to the covered product or its use.
 4 The notice must state the effective date of the cancellation and
 5 the reason for the cancellation. If a vehicle value protection
 6 agreement is canceled by the provider for a reason other than
 7 nonpayment of the provider fee, the provider shall refund to the
 8 contract holder 100% of the unearned pro rata provider fee paid by
 9 the contract holder, if any. If coverage under the vehicle value
 10 protection agreement continues after a claim, claims paid may be
 11 deducted from any refund. A reasonable administrative fee may be
 12 charged by the provider up to \$75.00.

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

16 PART 6
 17 ENFORCEMENT

18 Sec. 11. The ~~commissioner~~ **department** may take any action he ~~or~~
 19 ~~she~~ **it** determines is necessary or appropriate to enforce this act
 20 and to protect ~~guaranteed asset~~ **motor vehicle financial** protection
 21 ~~waiver holders~~ **product consumers** in this state, ~~including, but not~~
 22 ~~limited to, doing any of the following after proper notice and an~~
 23 ~~opportunity for hearing under the administrative procedures act of~~
 24 ~~1969, 1969 PA 306, MCL 24.201 to 24.328:~~

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

29 ~~(b) Assess an administrative fine of not more than \$500.00~~



1 ~~against a person for a violation of this act. However, the~~
 2 ~~commissioner may not assess administrative fines under this act~~
 3 ~~against any person that in the aggregate are more than \$20,000.00~~
 4 ~~for multiple violations of a similar nature. For purposes of this~~
 5 ~~subdivision, "similar nature" means that the violations consist of~~
 6 ~~the same or a similar course of conduct, action, or practice,~~
 7 ~~regardless of the number of times that action, conduct, or practice~~
 8 ~~occurs.~~ **as provided under the Michigan consumer protection act, 1976**
 9 **PA 331, MCL 445.901 to 445.922.**

10 **PART 9**

11 **APPLICABILITY**

12 **Sec. 14. This act as amended by the amendatory act that added**
 13 **this section applies to a motor vehicle financial protection**
 14 **product that becomes effective on or after 180 days after the**
 15 **effective date of the amendatory act that added this section.**

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

18 Enacting section 2. This amendatory act does not take effect
 19 unless all of the following bills of the 101st Legislature are
 20 enacted into law:

- 21 (a) House Bill No. 5430.
 22 (b) House Bill No. 5431.
 23 (c) House Bill No. 5432.
 24 (d) House Bill No. 5967.

