



**AN ACT CONCERNING GUARANTEED ASSET PROTECTION
WAIVERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2020*) (a) For the purposes of
2 this section:

3 (1) "Administrator" means a person, other than an insurer or
4 creditor, who performs any administrative or operational function on
5 behalf of a creditor as part of the creditor's guaranteed asset protection
6 waiver program;

7 (2) "Borrower" means an individual in this state who is a debtor,
8 retail buyer or lessee under a finance agreement;

9 (3) "Commissioner" means the Commissioner of Consumer
10 Protection;

11 (4) "Creditor" means the lender in a credit or loan transaction
12 concerning a motor vehicle, the lessor in a motor vehicle lease
13 transaction, a motor vehicle dealer providing credit to an individual
14 purchasing a motor vehicle from such dealer, the seller in a
15 commercial retail installment transaction and an assignee of any other
16 person described in this subdivision to whom a credit obligation
17 created as part of a transaction described in this subdivision is payable;

18 (5) "Finance agreement" means a loan, lease or retail installment
19 sales contract with a borrower for the lease or purchase of a motor
20 vehicle;

21 (6) "Guaranteed asset protection waiver" or "waiver" means a
22 contractual agreement forming part of a finance agreement, or
23 included as an addendum to a finance agreement, wherein a creditor
24 agrees, for a separate charge, to cancel or waive all or part of the
25 amount due and owing from a borrower pursuant to the finance
26 agreement in the event of a total physical damage loss or unrecovered
27 theft of the motor vehicle that is the subject of such finance agreement;

28 (7) "Insurer" has the same meaning as provided in section 38a-1 of
29 the general statutes;

30 (8) "Motor vehicle" means a self-propelled or towed vehicle
31 designed for commercial or personal use, including, but not limited to,
32 an all-terrain vehicle, automobile, boat, camper, motorcycle, personal
33 watercraft, recreational vehicle, snowmobile or truck, or a trailer for a
34 boat, camper, motorcycle or personal watercraft;

35 (9) "Motor vehicle dealer" means a motor vehicle dealer licensed in
36 accordance with section 14-52 of the general statutes; and

37 (10) "Person" means an individual, association, business trust,
38 company, corporation, organization, partnership or other legal entity.

39 (b) (1) Except as provided in subdivision (2) of this subsection:

40 (A) No person shall market, offer, provide or sell a guaranteed asset
41 protection waiver in this state except in accordance with the provisions
42 of this section, and no such person shall be required to be licensed
43 under the insurance laws and regulations of this state to market, offer,
44 provide or sell such a waiver in this state if such person complies with
45 the provisions of this section; and

46 (B) No guaranteed asset protection waiver that is marketed, offered,

47 provided or sold in this state in accordance with the provisions of this
48 section shall be deemed to constitute insurance, or be subject to the
49 insurance laws and regulations of this state.

50 (2) The provisions of this section shall not apply to:

51 (A) An insurance policy delivered, issued for delivery, renewed,
52 amended or continued in this state; or

53 (B) A debt cancellation or debt suspension contract offered in
54 accordance with any applicable provision of federal law, including, but
55 not limited to, 12 CFR Part 37, as amended from time to time, or 12
56 CFR Part 721, as amended from time to time.

57 (c) (1) (A) Each guaranteed asset protection waiver marketed,
58 offered, provided or sold to a borrower or prospective borrower may,
59 at the option of the creditor, be payable in a single payment or
60 multiple installment payments, and shall include a free look period
61 during which the borrower may cancel such waiver. Each free look
62 period shall begin on the effective date of the guaranteed asset
63 protection waiver and end not sooner than thirty days after such
64 effective date. If a borrower cancels a guaranteed asset protection
65 waiver during the free look period in accordance with the terms of the
66 waiver, the borrower shall be entitled to receive a refund for the
67 unearned portion of the purchase price for such waiver.

68 (B) Except as otherwise provided in the guaranteed asset protection
69 waiver, the borrower may cancel such waiver following expiration of
70 the free look period, and receive a refund for the unearned portion of
71 the purchase price for such waiver if such borrower sends a written
72 notice, not later than ninety days after the effective date of such
73 cancellation or termination of the related finance agreement, to the
74 person designated in such waiver to receive such notice. If a
75 guaranteed asset protection waiver is cancelled due to a default under,
76 or early termination of, the related finance agreement or repossession
77 of the related motor vehicle, any refund due and owing to the

78 borrower under the waiver shall be paid to the creditor or
79 administrator. A creditor may deduct, from any refund due and owing
80 to a borrower under a guaranteed asset protection waiver pursuant to
81 this subdivision, any amount due and owing under the related finance
82 agreement unless the borrower can show that such agreement is paid
83 in full.

84 (C) Notwithstanding any provision of law to the contrary, any cost
85 to a borrower for a guaranteed asset protection waiver that is
86 marketed, offered, provided or sold to the borrower in accordance
87 with the federal Truth in Lending Act, 15 USC 1601 et seq., and the
88 regulations promulgated thereunder, as both may be amended from
89 time to time, shall be separately stated and not considered a finance
90 charge or interest, unless such waiver is marketed, offered, provided
91 or sold in connection with a lease or retail installment sale as part of a
92 commercial transaction.

93 (2) Each guaranteed asset protection waiver provided or sold to a
94 borrower, other than a waiver provided or sold in connection with a
95 lease or retail installment sale as part of a commercial transaction, shall
96 disclose to the borrower, in easily readable and understandable
97 language:

98 (A) The name and address of each person who is a creditor,
99 administrator or borrower under such waiver on the date that such
100 waiver is first provided or sold to such borrower;

101 (B) The purchase price and terms of such waiver, including, but not
102 limited to, all conditions, exclusions and requirements for protection
103 under such waiver;

104 (C) The manner in which such borrower must apply for benefits
105 under such waiver, including all contact information concerning such
106 application;

107 (D) That such borrower may cancel such waiver during the free look
108 period, whether such borrower may cancel such waiver following

109 expiration of such free look period, and the procedures such borrower
110 must follow to receive any refund available to such borrower under
111 such waiver;

112 (E) The method used to calculate any refund available to such
113 borrower under such waiver; and

114 (F) That such borrower shall not be required to purchase such
115 waiver as a precondition to receiving credit, or leasing or purchasing a
116 motor vehicle, from a creditor, and that no person shall make any
117 credit term conditional upon the purchase of such waiver.

118 (3) Each guaranteed asset protection waiver provided or sold to a
119 borrower shall remain part of the related finance agreement upon each
120 assignment, sale or transfer of such agreement by a creditor.

121 (d) No borrower shall be required to purchase a guaranteed asset
122 protection waiver as a precondition to receiving credit, or leasing or
123 purchasing a motor vehicle, from a creditor, and no person shall make
124 any credit term conditional upon purchase of a waiver. Each creditor
125 that provides or sells a guaranteed asset protection waiver in this state
126 shall report such provision or sale, and forward all funds received
127 pursuant to such waiver, to the person, if any, designated in an
128 administrative services agreement, insurance policy or other
129 guaranteed asset protection program document to receive such report.
130 Each creditor or administrator that, pursuant to a written agreement,
131 holds or receives funds belonging to an insurer or another creditor or
132 administrator shall be deemed to hold such funds as a fiduciary for
133 such insurer, creditor or administrator.

134 (e) (1) (A) Each motor vehicle dealer that incurs an obligation
135 pursuant to a guaranteed asset protection waiver shall, either directly
136 or indirectly through an administrator acting on behalf of such dealer,
137 insure such obligation under an insurance policy issued by an insurer,
138 except that no such dealer shall be required to insure such obligation if
139 such waiver concerns a motor vehicle that such dealer has leased to a

140 borrower.

141 (B) Each creditor, other than a motor vehicle dealer, that incurs an
142 obligation pursuant to a guaranteed asset protection waiver may,
143 either directly or indirectly through an administrator acting on behalf
144 of such creditor, insure such obligation under an insurance policy
145 issued by an insurer.

146 (2) Each insurance policy insuring a guaranteed asset protection
147 waiver shall:

148 (A) Be subject to the insurance laws and regulations of this state;

149 (B) State the insurer's obligation to reimburse or pay to the creditor
150 that provided or sold the insured waiver any sums that such creditor is
151 legally required to waive pursuant to such waiver;

152 (C) Provide coverage to each assignee of the insured waiver upon
153 each assignment, sale or transfer of the related finance agreement; and

154 (D) Provide coverage that remains effective unless such coverage is
155 cancelled or terminated in accordance with all applicable insurance
156 laws and regulations of this state. Unless the insurer has not received
157 payment for such policy, such cancellation or termination shall not
158 reduce the liability of the insurer for a waiver provided or sold to a
159 borrower prior to the effective date of such cancellation or termination.

160 (f) The commissioner may, after providing notice and an
161 opportunity for a hearing in accordance with the provisions of chapter
162 54 of the general statutes, enjoin any person who violates any
163 provision of this section from marketing, offering, providing or selling
164 guaranteed asset protection waivers in this state, and impose a civil
165 penalty on such person in an amount not to exceed five hundred
166 dollars for each violation or ten thousand dollars in the aggregate for
167 all violations that are of a similar nature. For the purposes of this
168 subsection, violations are of a similar nature if such violations consist
169 of the same or similar actions, conduct or practices.

170 (g) The commissioner may adopt regulations, in accordance with
171 the provisions of chapter 54 of the general statutes, to implement the
172 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2020	New section

Statement of Legislative Commissioners:

In Subsec. (a), Subdiv. (6) was deleted to eliminate a redundant definition and Subdivs. (7) to (11), inclusive, were renumbered for consistency; Subsec. (b)(2)(B) was redrafted for consistency with standard drafting conventions; and Subsec. (c)(1) was divided into subparagraphs for clarity and "Notwithstanding any provision of law to the contrary" was substituted for "Notwithstanding any contrary provision of law" for consistency.

INS *Joint Favorable Subst.*