

SB0216S02 compared with SB0216S01

~~text~~ shows text that was in SB0216S01 but was deleted in SB0216S02.

text shows text that was not in SB0216S01 but was inserted into SB0216S02.

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Senator Wayne A. Harper proposes the following substitute bill:

VEHICLE VALUE PROTECTION AGREEMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses vehicle value protection agreements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a person to enter into a vehicle value protection agreement under certain circumstances;
- ▶ details requirements for cancellation of a vehicle value protection agreement;
- ▶ requires the provider of a benefit under a vehicle value protection agreement to:
 - obtain contract liability insurance for the vehicle value protection agreement;
 - provide other security for payment under the vehicle value protection agreement; or

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- maintain a certain net worth;
- ▶ authorizes the Division of Consumer Protection (division) to enforce vehicle value protection agreement requirements;
- ~~{~~ → authorizes the insurance commissioner to enforce, and provide civil penalties for a violation of, contract liability insurance and security requirements for a vehicle value protection agreement;
- ‡ ▶ requires the insurer under a contract liability insurance policy for a vehicle value protection agreement and a provider of a vehicle value protection agreement to provide certain information to the ~~{insurance commissioner;~~

~~{~~division:

- ▶ provides fines and civil penalties for a violation of vehicle value protection agreement requirements;
- ▶ requires fines and civil penalties received by the division for a violation to be placed in the Consumer Protection Education and Training Fund;
- ▶ provides administrative rulemaking authority; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapter 201

13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462

~~{~~ → ~~**31A-1-103**, as last amended by Laws of Utah 2021, Chapter 252~~

~~{~~ENACTS:

13-63-101, Utah Code Annotated 1953

13-63-201, Utah Code Annotated 1953

13-63-202, Utah Code Annotated 1953

13-63-203, Utah Code Annotated 1953

13-63-301, Utah Code Annotated 1953

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~~{ 31A-6c-101, Utah Code Annotated 1953~~

~~— 31A-6c-201, Utah Code Annotated 1953~~

~~— 31A-6c-301, Utah Code Annotated 1953~~

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-2-1 (Superseded 12/31/23)** is amended to read:

13-2-1 (Superseded 12/31/23). Consumer protection division established --

Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act;
- (q) Chapter 49, Immigration Consultants Registration Act;
- (r) Chapter 51, Transportation Network Company Registration Act;
- (s) Chapter 52, Residential Solar Energy Disclosure Act;

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- (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (u) Chapter 54, Ticket Website Sales Act;
- (v) Chapter 56, Ticket Transferability Act; [~~and~~]
- (w) Chapter 57, Maintenance Funding Practices Act[~~;~~]; and
- (x) Chapter 63, Vehicle Value Protection Agreement Act.

Section 2. Section **13-2-1 (Effective 12/31/23)** is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established --

Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act;
- (q) Chapter 49, Immigration Consultants Registration Act;
- (r) Chapter 51, Transportation Network Company Registration Act;
- (s) Chapter 52, Residential Solar Energy Disclosure Act;

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- (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (u) Chapter 54, Ticket Website Sales Act;
- (v) Chapter 56, Ticket Transferability Act;
- (w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]
- (x) Chapter 61, Utah Consumer Privacy Act[~~-~~]; and
- (y) Chapter 63, Vehicle Value Protection Agreement Act.

Section 3. Section **13-63-101** is enacted to read:

CHAPTER 63. VEHICLE VALUE PROTECTION AGREEMENT ACT

Part 1. General Provisions

13-63-101. Definitions.

As used in this chapter:

- (1) "Administrative functions" means the same as that term is defined in Section 31A-6b-102.
- (2) "Agreement administrator" means a person who provides administrative functions related to a vehicle value protection agreement.
- (3) "Covered vehicle" means a vehicle that is covered under a vehicle value protection agreement.
- (4) "Division" means the Division of Consumer Protection established in Section 13-2-1.
- (5) "Finance agreement" means the same as that term is defined in Section 31A-6b-102.
- (6) "Insurer" means the same as that term is defined in Section 31A-1-301.
- (~~6~~7) "Preliminary period" means a time period that:
 - (a) begins the day on which the vehicle value protection agreement becomes effective;and
 - (b) ends the last day on which the purchaser may cancel the vehicle value protection agreement with a full refund.
- (~~7~~8) "Provider" means a person who is obligated to provide a benefit to another person under a vehicle value protection agreement.
- (~~8~~9) "Purchaser" means a person who purchases a benefit from another person under a vehicle value protection agreement.

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~~(9)~~10 "~~Vehicle~~ Security" means the same as that term is defined in Section ~~31A-6b-102~~31A-1-301.

(11) "Vehicle" means the same as that term is defined in Section 31A-6b-102.

~~(10)~~12 (a) "Vehicle value protection agreement" means an agreement for a separate charge between a provider and purchaser under which the provider agrees to, upon damage, total loss, or unrecovered theft of the purchaser's covered vehicle, provide a benefit to the purchaser that may be applied to:

(i) the cash value of the covered vehicle when traded in for a replacement vehicle;

(ii) the finance agreement for a replacement vehicle; or

(iii) the purchase or lease price of a replacement vehicle.

(b) "Vehicle value protection agreement" includes:

(i) a vehicle trade-in agreement;

(ii) a vehicle diminished value agreement;

(iii) a vehicle cash down payment protection agreement; and

(iv) a vehicle depreciation benefit agreement.

(c) "Vehicle value protection agreement" does not include:

(i) ~~insurance or~~ an insurance contract ~~regulated under Title 31A, Insurance Code~~;

(ii) a guaranteed asset protection waiver, as defined in Section 31A-6b-102;

(iii) a debt cancellation agreement, as defined in Section 31A-21-108; or

(iv) a debt suspension contract, as defined in Section 31A-21-108.

Section 4. Section ~~13-63-201~~ is enacted to read:

Part 2. Vehicle Value Protection Agreements

13-63-201. Vehicle value protection agreement -- Required disclosures -- Finance agreement conditions.

(1) A person may not issue, sell, offer to sell, or otherwise provide a vehicle value protection agreement that does not comply with this chapter.

(2) A vehicle value protection agreement shall conspicuously disclose:

(a) the name, address, and contact information of:

(i) the provider;

(ii) the agreement administrator, if any; and

(iii) the purchaser;

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(b) the terms of the vehicle value protection agreement, including:

(i) the charges under the vehicle value protection agreement;

(ii) the benefit eligibility requirements;

(iii) the conditions imposed by the vehicle value protection agreement; and

(iv) the procedure a purchaser is required to follow to obtain the benefit;

(c) subject to Subsection (3), the terms or restrictions governing cancellation of the vehicle value protection agreement, including:

(i) that the purchaser may cancel the vehicle value protection agreement during the preliminary period ~~in accordance with Section 13-63-202;~~

(ii) the length of the preliminary period;

~~(iii)~~(iii) the purchaser's right to a refund for cancellation under Section 13-63-202; and

~~(iii)~~(iv) the methodology for calculating any refund to the purchaser for cancellation.

(3) The disclosure described in Subsection (2)(c)(i) shall:

(a) be written in dark bold with at least 12-point type on the first page of the vehicle value protection agreement; and

(b) read as follows: "IN ACCORDANCE WITH UTAH CODE SECTION 13-63-203, YOU, THE PURCHASER, MAY CANCEL THIS AGREEMENT AT ANY TIME BEFORE THE END OF THE PRELIMINARY PERIOD DESCRIBED IN THIS AGREEMENT."

~~(3)~~4 The provider shall provide the purchaser a copy of the vehicle value protection agreement at the time the provider and purchaser enter into the vehicle value protection agreement.

~~(4)~~5 A finance agreement or vehicle purchase agreement may not be conditioned on a purchaser entering into a vehicle value protection agreement.

Section 5. Section 13-63-202 is enacted to read:

13-63-202. Preliminary period -- Cancellation -- Refund.

~~(1)~~ (a) A vehicle value protection agreement shall provide for a preliminary period of at least 30 days:

~~(b)~~ (b) If a purchaser cancels a vehicle value protection agreement within the preliminary period, the purchaser is entitled to a refund of the charges under the vehicle value protection agreement as follows:

~~(i)~~ (i) if benefits have not been provided, a full refund; or

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~~—— (ii) if benefits have been provided, a refund to the extent provided for in the vehicle value protection agreement.~~

~~—— (2) (a) Except as provided in Subsection (2)(b), if a provider cancels a vehicle value protection agreement, the provider shall mail a written notice to the purchaser at least five days before the day on which the vehicle value protection agreement is canceled.~~

~~—— (b) A provider may immediately cancel a vehicle value protection agreement upon sending a notice of cancellation to the purchaser if the reason for the cancellation is:~~

~~—— (i) the purchaser's failure to pay the provider's fee under the vehicle value protection agreement; or~~

~~—— (ii) the purchaser's breach of the purchaser's duties relating to the covered vehicle.~~

~~—— (3) A notice described in Subsection (2) shall include:~~

~~—— (a) the effective date of the cancellation; and~~

~~—— (b) the reason for the cancellation.~~

~~—— (4) If a provider cancels a vehicle value protection agreement for a reason other than the purchaser's failure to pay the provider's fee under the vehicle value protection agreement, the provider:~~

~~—— (a) shall refund the purchaser any unearned provider fee under the vehicle value protection agreement;~~

~~—— (b) may charge the purchaser an administrative fee of up to \$75; and~~

~~—— (c) may deduct the amount of a benefit paid under the vehicle value protection agreement from the refund.~~

~~—— Section 6. Section 13-63-301 is enacted to read:~~

~~Part 3. Enforcement~~

~~—— 13-63-301. Enforcement -- Rulemaking.~~

~~—— (1) The division shall administer and enforce this chapter in accordance with Chapter 2, Division of Consumer Protection.~~

~~—— (2) The division may, in coordination with the Insurance Department, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter.~~

~~—— Section 7. Section 31A-1-103 is amended to read:~~

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- ~~31A-1-103. Scope and applicability of title:~~
- ~~(1) This title does not apply to:~~
- ~~(a) a retainer contract made by an attorney-at-law:~~
- ~~(i) with an individual client; and~~
- ~~(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;~~
- ~~(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;~~
- ~~(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;~~
- ~~(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;~~
- ~~(e) legal assistance by employee organizations to their members in matters relating to employment;~~
- ~~(f) death, accident, health, or disability benefits provided to a person by an organization or its affiliate if:~~
- ~~(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had its principal place of business in Utah for at least five years;~~
- ~~(ii) the person is not an employee of the organization; and~~
- ~~(iii) (A) substantially all the person's time in the organization is spent providing voluntary services:~~
- ~~(I) in furtherance of the organization's purposes;~~
- ~~(II) for a designated period of time; and~~
- ~~(III) for which no compensation, other than expenses, is paid; or~~
- ~~(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months; [or]~~
- ~~(g) a prepaid contract of limited duration that provides for scheduled maintenance only[.]; or~~
- ~~(h) a vehicle value protection agreement, as defined in Section 13-63-101.~~

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- ~~—— (2) (a) This title restricts otherwise legitimate business activity;~~
- ~~—— (b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law;~~
- ~~—— (3) Except as otherwise expressly provided, this title does not apply to:~~
 - ~~—— (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended;~~
 - ~~—— (b) ocean marine insurance;~~
 - ~~—— (c) death, accident, health, or disability benefits provided by an organization if the organization:~~
 - ~~—— (i) has as the organization's principal purpose to achieve charitable, educational, social, or religious objectives rather than to provide death, accident, health, or disability benefits;~~
 - ~~—— (ii) does not incur a legal obligation to pay a specified amount; and~~
 - ~~—— (iii) does not create reasonable expectations of receiving a specified amount on the part of an insured person;~~
 - ~~—— (d) other business specified in rules adopted by the commissioner on a finding that:~~
 - ~~—— (i) the transaction of the business in this state does not require regulation for the protection of the interests of the residents of this state; or~~
 - ~~—— (ii) it would be impracticable to require compliance with this title;~~
 - ~~—— (e) except as provided in Subsection (4), a transaction independently procured through negotiations under Section 31A-15-104;~~
 - ~~—— (f) self-insurance;~~
 - ~~—— (g) reinsurance;~~
 - ~~—— (h) subject to Subsection (5), an employee or labor union group insurance policy covering risks in this state or an employee or labor union blanket insurance policy covering risks in this state, if:~~
 - ~~—— (i) the policyholder exists primarily for purposes other than to procure insurance;~~
 - ~~—— (ii) the policyholder:~~
 - ~~—— (A) is not a resident of this state;~~
 - ~~—— (B) is not a domestic corporation; or~~

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- ~~—— (C) does not have the policyholder's principal office in this state;~~
- ~~—— (iii) no more than 25% of the certificate holders or insureds are residents of this state;~~
- ~~—— (iv) on request of the commissioner, the insurer files with the department a copy of the policy and a copy of each form or certificate; and~~
- ~~—— (v) (A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's business, as if the insurer were authorized to do business in this state; and~~
- ~~—— (B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;~~
- ~~—— (i) to the extent provided in Subsection (6):~~
- ~~—— (i) a manufacturer's or seller's warranty; and~~
- ~~—— (ii) a manufacturer's or seller's service contract;~~
- ~~—— (j) except to the extent provided in Subsection (7), a public agency insurance mutual; or~~
- ~~—— (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver.~~
- ~~—— (4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.~~
- ~~—— (5) (a) After a hearing, the commissioner may order an insurer of certain group insurance policies or blanket insurance policies to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.~~
- ~~—— (b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:~~
- ~~—— (i) the insurer to be authorized to do business in this state; or~~
- ~~—— (ii) that any of the insurer's transactions be subject to this title.~~
- ~~—— (c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.~~
- ~~—— (6) (a) As used in Subsection (3)(i) and this Subsection (6):~~

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- ~~—— (i) "manufacturer's or seller's service contract" means a service contract:~~
- ~~—— (A) made available by:~~
- ~~—— (I) a manufacturer of a product;~~
- ~~—— (II) a seller of a product; or~~
- ~~—— (III) an affiliate of a manufacturer or seller of a product;~~
- ~~—— (B) made available:~~
- ~~—— (I) on one or more specific products; or~~
- ~~—— (II) on products that are components of a system; and~~
- ~~—— (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor;~~
- ~~—— (ii) "manufacturer's or seller's warranty" means the guaranty of:~~
- ~~—— (A) (I) the manufacturer of a product;~~
- ~~—— (II) a seller of a product; or~~
- ~~—— (III) an affiliate of a manufacturer or seller of a product;~~
- ~~—— (B) (I) on one or more specific products; or~~
- ~~—— (II) on products that are components of a system; and~~
- ~~—— (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor; and~~
- ~~—— (iii) "service contract" means the same as that term is defined in Section 31A-6a-101.~~
- ~~—— (b) A manufacturer's or seller's warranty may be designated as:~~
- ~~—— (i) a warranty;~~
- ~~—— (ii) a guaranty; or~~
- ~~—— (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii);~~
- ~~—— (c) This title does not apply to:~~
- ~~—— (i) a manufacturer's or seller's warranty;~~
- ~~—— (ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and~~
- ~~—— (iii) a service contract that is not a manufacturer's or seller's warranty or~~

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manufacturer's or seller's service contract if:

~~—— (A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;~~

~~—— (B) the service contract is for the repair or maintenance of goods;~~

~~—— (C) the purchase price of the product is \$3,700 or less;~~

~~—— (D) the product is not a motor vehicle; and~~

~~—— (E) the product is not the subject of a home warranty service contract.~~

~~—— (d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:~~

~~—— (i) at the time of the purchase of the product; or~~

~~—— (ii) at a time other than the time of the purchase of the product.~~

~~—— (7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an entity formed by two or more political subdivisions or public agencies of the state:~~

~~—— (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and~~

~~—— (ii) for the purpose of providing for the political subdivisions or public agencies:~~

~~—— (A) subject to Subsection (7)(b), insurance coverage; or~~

~~—— (B) risk management.~~

~~—— (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may not provide health insurance unless the public agency insurance mutual provides the health insurance using:~~

~~—— (i) a third party administrator licensed under Chapter 25, Third Party Administrators;~~

~~—— (ii) an admitted insurer; or~~

~~—— (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.~~

~~—— (c) Except for this Subsection (7), a public agency insurance mutual is exempt from this title:~~

~~—— (d) A public agency insurance mutual is considered to be a governmental entity~~

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~~and political subdivision of the state with all of the rights, privileges, and immunities of a governmental entity or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.~~

~~Section 8. Section 31A-6c-101 is enacted to read:~~

~~CHAPTER 6c. VEHICLE VALUE PROTECTION AGREEMENT LIABILITY~~

~~Part 1. General Provisions~~

~~31A-6c-101. Definitions:~~

~~As used in this chapter:~~

~~(1) "Provider" means the same as that term is defined in Section 13-63-101.~~

~~(2) "Purchaser" means the same as that term is defined in Section 13-63-101.~~

~~(3) "Vehicle value protection agreement" means the same as that term is defined in Section 13-63-101.~~

~~(4) "Violation of a similar nature" means a violation of this chapter that consists of the same or similar action, course of conduct, or practice that is determined to violate this chapter.~~

~~Section 9. Section 31A-6c-201 is enacted to read:~~

~~Part 2. Vehicle Value Protection Agreement Liability Requirements~~

~~31A-6c-201.} Liability insurance -- Security for payment -- Provider net worth value.~~

~~(1) A provider under a vehicle value protection agreement shall:~~

~~(a) insure all vehicle value protection agreements the provider enters into under a contractual liability insurance policy that:~~

~~(i) (A) is issued by an insurer ~~{licensed under}~~ authorized to do business in this {title} state that ~~};~~~~

~~(A) } has a surplus as to policyholders and paid-in capital of ~~{at least \$15,000,000 and not } less than \$10,000,000 {,};~~ and ~~{~~~~

~~(B) } more than \$5,000,000 and provides evidence to the ~~{commissioner}~~ division that the ~~{company}~~ insurer maintains a ratio of net written premiums to surplus as to policyholders and paid-in capital of not greater than three to one; or~~

~~(B) is issued by an insurer authorized to do business in this state that has as a surplus as to policyholders and paid-in capital of more than \$10,000,000; and~~

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(ii) (A) requires the insurer to reimburse the purchaser if the provider fails to perform the provider's obligations under a vehicle value protection agreement;

(B) covers any amount the provider is required to pay for failure to perform under a vehicle value protection agreement; and

(C) allows a purchaser to file with the insurer a claim for reimbursement under the vehicle value protection agreement if the provider does not pay the purchaser within 60 days after the day on which proof of damage, total loss, or unrecovered theft of the covered vehicle is provided to the provider in accordance with the terms of the vehicle value protection agreement;

(b) (i) maintain a funded reserve account to cover the provider's obligations under all vehicle value protection agreements the provider enters into that is equal to or greater than 40% of money received by, less claims paid to, the provider for the vehicle value protection agreements; and

(ii) place in trust with the ~~commissioner~~ division a security that is equal to at least 5% of money received by, less claims paid to, the provider for all vehicle value protection agreements the provider enters into and ~~not less~~ more than \$25,000; or

(c) maintain, or together with the provider's parent company maintain, a net worth or stockholders' equity of \$100,000,000.

(2) (a) An insurer described in Subsection (1)(a) shall annually file with the ~~commissioner~~ division:

(i) a copy of the insurer's audited financial statements;

(ii) the insurer's ~~NAIC~~ National Association of Insurance Commissioner annual statement; and

(iii) the actuarial certification filed in the insurer's state of domicile.

(b) The ~~commissioner~~ division may examine a reserve account described in Subsection (1)(b).

(c) A provider shall, upon request, provide the ~~commissioner~~ division a copy of:

(i) the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission; or

(ii) if the provider does not file with the Securities and Exchange Commission, a copy of the provider's audited financial statements that shows the net worth of the provider or the

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provider's parent company.

Section ~~{10}6~~. Section ~~{31A-6c-301}~~13-63-203 is enacted to read:

13-63-203. Preliminary period -- Cancellation -- Refund.

(1) (a) A vehicle value protection agreement shall provide for a preliminary period of at least 30 days.

(b) If a purchaser cancels a vehicle value protection agreement within the preliminary period, the purchaser is entitled to a refund of the charges under the vehicle value protection agreement as follows:

(i) if benefits have not been provided, a full refund; or

(ii) if benefits have been provided, a refund to the extent provided for in the vehicle value protection agreement.

(2) (a) Except as provided in Subsection (2)(b), if a provider cancels a vehicle value protection agreement, the provider shall mail a written notice to the purchaser at least five days before the day on which the vehicle value protection agreement is canceled.

(b) A provider may immediately cancel a vehicle value protection agreement upon sending a notice of cancellation to the purchaser if the reason for the cancellation is:

(i) the purchaser's failure to pay the provider's fee under the vehicle value protection agreement; or

(ii) the purchaser's breach of the purchaser's duties relating to the covered vehicle.

(3) A notice described in Subsection (2) shall include:

(a) the effective date of the cancellation; and

(b) the reason for the cancellation.

(4) If a provider cancels a vehicle value protection agreement for a reason other than the purchaser's failure to pay the provider's fee under the vehicle value protection agreement, the provider:

(a) shall refund the purchaser any unearned provider fee under the vehicle value protection agreement;

(b) may charge the purchaser an administrative fee of up to \$75; and

(c) may deduct the amount of a benefit paid under the vehicle value protection agreement from the refund.

Section 7. Section 13-63-301 is enacted to read:

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Part 3. Enforcement

~~{31A-6c-301}~~13-63-301. ~~{ Enforcement}~~ Administration and enforcement --

Division powers -- Fees -- Rulemaking.

(1) ~~{In}~~The division shall administer and enforce this chapter in accordance with ~~{Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:~~

~~— (a) order a person who violates this chapter to cease and desist from an act that violates this chapter; or~~

~~— (b) impose a penalty:~~

~~— (i) up to \$500 per violation; and~~

~~— (ii) not to exceed the aggregate of \$10,000 for the violations of a similar nature.~~

~~— (2) The commissioner may, in coordination with the~~ Chapter 2, Division of Consumer Protection~~;~~.

(2) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(a) the division director may impose an administrative fine of up to \$2,500 for each act that is in violation of this chapter, including failure to insure or consider a vehicle value protection agreement as required under Subsection 13-63-202(1); and

(b) the division may bring a civil action to enforce this chapter.

(3) In a civil action by the division to enforce this chapter, the court may:

(a) declare that an act or practice violates this chapter;

(b) issue an injunction for a violation of this chapter;

(c) order disgorgement of any money received after a violation of this chapter;

(d) order payment of disgorged money to an injured individual;

(e) impose a civil penalty of up to \$2,500 for each violation of this chapter; or

(f) award any other relief that the court deems reasonable and necessary.

(4) If a court grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(5) (a) A person who violates an administrative or court order issued for a violation of

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this chapter is subject to a civil penalty of no more than \$5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the division.

(c) The division shall deposit money received for the payment of a fine or civil penalty under this section into the Consumer Protection Education and Training Fund created in Section 13-2-8.

(6) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter.

Section ~~{11}~~8. **Effective date.**

~~{This}~~(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.
~~except that the~~.

(2) The amendments to Section 13-2-1 (Effective 12/31/23) take effect on December 31, 2023.