

HOUSE BILL NO. 5365

November 14, 2023, Introduced by Reps. McKinney and Skaggs and referred to the Committee on Judiciary.

A bill to amend 2009 PA 229, entitled
"Guaranteed asset protection waiver act,"
by amending section 3 (MCL 492.23).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Administrator" means a person, other than a creditor or
3 insurer, that performs administrative or operational functions in
4 connection with a guaranteed asset protection waiver program.

5 (b) "Borrower" means a person that purchases, agrees to
6 purchase, leases, or agrees to lease a motor vehicle. ~~The term~~

1 **Borrower** includes, but is not limited to, an installment buyer or a
2 retail buyer.

3 (c) "Commissioner" means the ~~commissioner of the office of~~
4 ~~financial and insurance regulation in the department of energy,~~
5 ~~labor, and economic growth.~~ **director of the department of insurance**
6 **and financial services.**

7 (d) "Creditor" means a person that extends credit to a
8 borrower in connection with the purchase of a motor vehicle, ~~an~~
9 assignee of that person, ~~a~~ lessor of a motor vehicle, ~~or~~ an
10 assignee of that lessor. ~~The term~~ **Creditor** includes, but is not
11 limited to, any of the following:

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

14 (ii) An installment seller that leases a motor vehicle to an
15 installment buyer and any assignee to which the lease payments are
16 payable.

17 (iii) A sales finance company that extends credit to an
18 installment buyer and any assignee to which that credit obligation
19 is payable.

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

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

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

28 (f) "Free look period" means the period of time during which a
29 borrower may cancel a guaranteed asset protection waiver without

1 penalty, fees, or costs to the borrower. A free look period ~~must~~
2 ~~begin~~ **begins** on the effective date of the guaranteed asset
3 protection waiver, ~~and the term of a free look period~~ **and** must be
4 at least 30 days.

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

10 (h) "Installment buyer" means that term as defined in section
11 2 of the motor vehicle sales finance act, **1950 (Ex Sess) PA 27**, MCL
12 492.102.

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

16 (j) "Installment seller" means that term as defined in section
17 2 of the motor vehicle sales finance act, **1950 (Ex Sess) PA 27**, MCL
18 492.102.

19 (k) "Insurer" means an authorized insurer as ~~defined~~ **described**
20 in section 108 of the insurance code of 1956, 1956 PA 218, MCL
21 500.108.

22 (l) "Motor vehicle" means a self-propelled or towed device that
23 transports people or property for personal or commercial use. ~~The~~
24 ~~term~~ **Motor vehicle** includes, but is not limited to, an automobile,
25 truck, motorcycle, recreational vehicle, all-terrain vehicle,
26 camper, boat, or personal watercraft or a motorcycle, boat, camper,
27 or personal watercraft trailer. ~~The term~~ **Motor vehicle** 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 (m) ~~(n)~~ "Person" means an individual, limited liability
 4 company, partnership, association, corporation, governmental
 5 entity, or any other legal entity.

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

8 (o) ~~(p)~~ "Retail charge agreement" means that term as defined
 9 in section 2 of the retail installment sales act, **1966 PA 224**, MCL
 10 445.852.

11 (p) ~~(q)~~ "Retail installment contract" means that term as
 12 defined in section 2 of the retail installment sales act, **1966 PA**
 13 **224**, MCL 445.852.

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

16 (q) ~~(s)~~ "Retail seller" means that term as defined in section
 17 2 of the retail installment sales act, **1966 PA 224**, MCL 445.852.

18 (r) ~~(t)~~ "Sales finance company" means that term as defined in
 19 section 2 of the motor vehicle sales finance act, **1950 (Ex Sess) PA**
 20 **27**, MCL 492.102.

21 Enacting section 1. This amendatory act does not take effect
 22 unless Senate Bill No. ____ or House Bill No. 5354 (request no.
 23 03158'23) of the 102nd Legislature is enacted into law.