

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 23, Page 33, Section 407.828, Line 121, by inserting after all of said section and line the following:

"407.2020. For purposes of sections 407.2020 to 407.2090, the following terms mean:

(1) "Commercial transaction", a transaction involving a motor vehicle in which the motor vehicle will primarily be used for business purposes rather than personal purposes;

(2) "Consumer", an individual purchaser of a motor vehicle or a borrower under a finance agreement. The term "consumer" includes any borrower, as defined in section 407.2030, or contract holder, as defined in section 407.2060, as applicable;

(3) "Finance agreement", a loan, retail installment sales contract, or lease for the purchase, refinancing, or lease of a motor vehicle;

(4) "Free-look period", a period of time from the effective date of the motor vehicle financial protection product until the date the motor vehicle financial protection product may be cancelled without penalty, fees, or costs. This period of time shall not be shorter than thirty days;

(5) "Insurer", an insurance company licensed, registered, or otherwise authorized to issue contractual liability insurance under the insurance laws of this state;

(6) "Motor vehicle", any self-propelled or towed vehicle designed for personal or commercial use including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and related trailers;

(7) "Motor vehicle financial protection product", an agreement that protects a consumer's financial interest in his or her current or future motor vehicle. The term "motor vehicle financial protection product" includes any debt waiver, as defined in section 407.2030, and any vehicle value protection agreement, as defined in section 407.2060;

(8) "Person", an individual, company, association, organization, partnership, business trust, or corporation, and every form of legal entity.

407.2025. 1. Motor vehicle financial protection products may be offered, sold, or given to consumers in this state in compliance with sections 407.2020 to 407.2090.

2. Any amount charged or financed for a motor vehicle financial protection product shall be separately stated and shall not be considered a finance charge or interest.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1       3. Any extension of credit, terms of credit, or terms of the related motor vehicle sale or lease  
2 shall not be conditioned upon the consumer's payment for or financing of any charge for a motor  
3 vehicle financial protection product, except that motor vehicle financial protection products may be  
4 discounted or given at no charge in connection with the purchase of other non-credit-related goods  
5 or services.

6       407.2030. For purposes of sections 407.2030 to 407.2055, the following terms mean:

7       (1) "Administrator", any person, other than an insurer or creditor, who performs  
8 administrative or operational functions for debt waiver programs;

9       (2) "Borrower", a debtor or retail buyer or lessee under a finance agreement;

10       (3) "Creditor":

11       (a) The lender in a loan or credit transaction;

12       (b) The lessor in a lease transaction;

13       (c) Any retail seller of motor vehicles;

14       (d) The seller in commercial retail installment transactions; or

15       (e) The assignee of any person described in paragraphs (a) to (d) of this subdivision to  
16 whom the credit obligation is payable;

17       (4) "Debt waiver", any guaranteed asset protection waiver or excess wear and use waiver;

18       (5) "Excess wear and use waiver", a contractual agreement in which a creditor agrees, with  
19 or without a separate charge, to cancel or waive all or part of amounts that may become due under a  
20 borrower's lease agreement as a result of excessive wear and use of a motor vehicle, which  
21 agreement shall be part of, or a separate addendum to, the lease agreement. Excess wear and use  
22 waivers may also cancel or waive amounts due for excess mileage;

23       (6) "Guaranteed asset protection waiver", a contractual agreement in which a creditor  
24 agrees, with or without a separate charge, to cancel or waive all or part of amounts due on a  
25 borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of the  
26 motor vehicle, which agreement shall be part of, or a separate addendum to, the finance agreement.  
27 A guaranteed asset protection waiver may also provide, with or without a separate charge, a benefit  
28 that waives an amount, or provides a borrower with a credit, toward the purchase of a replacement  
29 motor vehicle.

30       407.2035. 1. (1) A retail seller shall insure its debt waiver obligations under a contractual  
31 liability or other insurance policy issued by an insurer. A creditor, other than a retail seller, may  
32 insure its debt waiver obligations under a contractual liability policy or other such policy issued by  
33 an insurer. Any such insurance policy may be directly obtained by a creditor or retail seller or may  
34 be procured by an administrator to cover a creditor's or retail seller's obligations.

35       (2) Notwithstanding the provisions of subdivision (1) of this subsection, retail sellers who  
36 are lessors on motor vehicles shall not be required to insure obligations related to debt waivers on  
37 such leased motor vehicles.

38       2. The debt waiver remains a part of the finance agreement upon the assignment, sale, or  
39 transfer of such finance agreement by the creditor.

1       3. Any creditor who offers a debt waiver shall report the sale of, and forward funds due to,  
2 the designated party or parties.

3       4. Funds received or held by a creditor or administrator and belonging to an insurer, creditor,  
4 or administrator shall be held by such creditor or administrator in a fiduciary capacity.

5       407.2040. 1. Contractual liability or other insurance policies insuring debt waivers shall  
6 state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally  
7 obligated to waive under a debt waiver.

8       2. Coverage under a contractual liability or other insurance policy insuring a debt waiver  
9 shall also cover any subsequent assignee upon the assignment, sale, or transfer of the finance  
10 agreement.

11       3. Coverage under a contractual liability or other insurance policy insuring a debt waiver  
12 shall remain in effect unless cancelled or terminated in compliance with applicable insurance laws  
13 of this state.

14       4. The cancellation or termination of a contractual liability or other insurance policy shall  
15 not reduce the insurer's responsibility for debt waivers issued by the creditor before the date of  
16 cancellation or termination and for which premium has been received by the insurer.

17       407.2045. Debt waivers shall disclose in writing and in clear, understandable language that  
18 is easy to read the following:

19       (1) The name and address of the initial creditor and the borrower at the time of sale, and the  
20 identity of any administrator if different from the creditor;

21       (2) The purchase price, if any, and the terms of the debt waiver including, but not limited to,  
22 the requirements for protection, conditions, or exclusions associated with the debt waiver;

23       (3) A statement that the borrower may cancel the debt waiver within a free-look period as  
24 specified in the debt waiver and, if so cancelled, shall be entitled to a full refund of the purchase  
25 price paid by the borrower, if any, so long as no benefits have been provided;

26       (4) The procedure the borrower is required to follow, if any, to obtain debt waiver benefits  
27 under the terms and conditions of the debt waiver, including, if applicable, a telephone number or  
28 website and address where the borrower may apply for debt waiver benefits;

29       (5) The terms and conditions governing cancellation consistent with all applicable Missouri  
30 laws; and

31       (6) A statement that any extension of credit, terms of the credit, or terms of the related  
32 motor vehicle sale or lease shall not be conditioned upon the borrower's purchase of a debt waiver.

33       407.2050. 1. Debt waivers shall provide that if a borrower cancels a debt waiver within the  
34 free-look period, the borrower shall be entitled to a full refund of the amount the borrower paid, if  
35 any, so long as no benefits have been provided.

36       2. If, after the debt waiver has been in effect beyond the free-look period, the borrower  
37 cancels the debt waiver or there is an early termination of the finance agreement, the borrower may  
38 be entitled to a refund of the amount the borrower paid of the unearned portion of the purchase

1 price, if any, less a cancellation fee up to seventy-five dollars, if no benefit has been or will be  
2 provided.

3 3. If the cancellation of a debt waiver occurs as a result of a default under the finance  
4 agreement, the repossession of the motor vehicle associated with the finance agreement, or any  
5 other termination of the finance agreement, any refund due may be paid directly to the creditor or  
6 administrator and applied as a reduction of the amount owed under the finance agreement unless the  
7 borrower can show that the finance agreement has been paid in full.

8 407.2055. 1. Debt waivers offered by state or federal banks or credit unions in compliance  
9 with applicable state or federal law shall be exempt from the provisions of sections 407.2020 to  
10 407.2090.

11 2. The provisions of sections 407.2045 and 407.2080 shall not apply to debt waivers offered  
12 in connection with commercial transactions.

13 407.2060. For purposes of sections 407.2060 to 407.2075, the following terms mean:

14 (1) "Administrator", any person who is responsible for the administrative or operational  
15 functions of vehicle value protection agreements including, but not limited to, the adjudication of  
16 claims or benefit requests by contract holders;

17 (2) "Contract holder", a person who is the purchaser or holder of a vehicle value protection  
18 agreement;

19 (3) "Provider", a person who is obligated to provide a benefit under a vehicle value  
20 protection agreement. A provider may perform as an administrator or retain the services of a third-  
21 party administrator;

22 (4) "Vehicle value protection agreement", a contractual agreement that:

23 (a) Provides a benefit toward the reduction of some or all of the contract holder's current  
24 finance agreement deficiency balance or toward the purchase or lease of a replacement motor  
25 vehicle or motor vehicle services upon the occurrence of an adverse event to the motor vehicle  
26 including, but not limited to, loss, theft, damage, obsolescence, diminished value, or depreciation;

27 (b) Does not include debt waivers; and

28 (c) May include agreements such as, but not limited to, trade-in-credit agreements,  
29 diminished value agreements, depreciation benefit agreements, or other similarly named  
30 agreements.

31 407.2065. 1. A provider may, but is not required to, use an administrator or other designee  
32 to be responsible for any and all of the administration of vehicle value protection agreements in  
33 compliance with the provisions of sections 407.2020 to 407.2090.

34 2. Vehicle value protection agreements shall not be sold unless the contract holder has been  
35 or will be provided access to a copy of the vehicle value protection agreement within a reasonable  
36 time.

37 3. In order to assure the faithful performance of the provider's obligations to its contract  
38 holders, each provider shall comply with subdivision (1) or (2) of this subsection, as follows:

1       (1) In order to satisfy the requirements of this subsection under this subdivision, the  
2 provider shall insure all its vehicle value protection agreements under an insurance policy that pays  
3 or reimburses in the event the provider fails to perform its obligations under the vehicle value  
4 protection agreement and that is issued by an insurer who is licensed, registered, or otherwise  
5 authorized to do business in this state and who:

6       (a) Maintains surplus as to policyholders and paid-in capital of at least fifteen million  
7 dollars; or

8       (b) Maintains:

9       a. Surplus as to policyholders and paid-in capital of less than fifteen million dollars but at  
10 least equal to ten million dollars; and

11       b. A ratio of net written premiums, wherever written, to surplus as to policyholders and  
12 paid-in capital of not greater than three to one; or

13       (2) In order to satisfy the requirements of this subsection under this subdivision, the  
14 provider shall:

15       (a) Maintain, or together with its parent company maintain, a net worth or stockholders'  
16 equity of one hundred million dollars; and

17       (b) Upon request, provide the attorney general with a copy of the provider's or the provider's  
18 parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange  
19 Commission (SEC) within the last calendar year or, if the company does not file with the SEC, a  
20 copy of the company's audited financial statements, which show a net worth of the provider or its  
21 parent company of at least one hundred million dollars. If the provider's parent company's Form 10-  
22 K, Form 20-F, or financial statements are filed to meet the provider's financial security requirement,  
23 the parent company shall agree to guarantee the obligations of the provider relating to vehicle value  
24 protection agreements sold by the provider in this state.

25       4. Except for the requirements specified in subsection 3 of this section, no other financial  
26 security requirements shall be required for vehicle value protection agreement providers.

27       407.2070. Vehicle value protection agreements shall disclose in writing and in clear,  
28 understandable language that is easy to read the following:

29       (1) The name and address of the provider, contract holder, and administrator, if any;

30       (2) The terms of the vehicle value protection agreement including, but not limited to, the  
31 purchase price to be paid by the contract holder, if any, the requirements for eligibility, the  
32 conditions of coverage, and any exclusions;

33       (3) A statement that the vehicle value protection agreement may be cancelled by the  
34 contract holder within a free-look period as specified in the vehicle value protection agreement and  
35 that in such event the contract holder shall be entitled to a full refund of the purchase price paid by  
36 the contract holder, if any, so long as no benefits have been provided;

37       (4) The procedure the contract holder shall follow, if any, to obtain a benefit under the terms  
38 and conditions of the vehicle value protection agreement, including, if applicable, a telephone  
39 number or website and address where the contract holder may apply for a benefit;

1       (5) A statement that indicates whether the vehicle value protection agreement may be  
2 cancelled after the free-look period and the conditions under which it may be cancelled, including  
3 the procedures for requesting any refund of the unearned purchase price paid by the contract holder;

4       (6) If the vehicle value protection agreement is cancellable after the free-look period, a  
5 statement that any refund of the unearned purchase price of the vehicle value protection agreement  
6 shall be calculated on a pro rata basis;

7       (7) A statement that any extension of credit, terms of the credit, or terms of the related  
8 motor vehicle sale or lease shall not be conditioned upon the purchase of the vehicle value  
9 protection agreement;

10       (8) The terms, restrictions, or conditions governing cancellation of the vehicle value  
11 protection agreement before the termination or expiration date of the vehicle value protection  
12 agreement by either the provider or the contract holder. The provider of the vehicle value protection  
13 agreement shall mail a written notice to the contract holder at the last known address of the contract  
14 holder contained in the records of the provider at least five days before cancellation by the provider.  
15 Prior notice shall not be required if the reason for cancellation is nonpayment of the provider fee, a  
16 material misrepresentation by the contract holder to the provider or administrator, or a substantial  
17 breach of duties by the contract holder relating to the covered product or its use. The notice shall  
18 state the effective date of the cancellation and the reason for the cancellation. If a vehicle value  
19 protection agreement is cancelled by the provider for a reason other than nonpayment of the  
20 provider fee, the provider shall refund to the contract holder one hundred percent of the unearned  
21 pro rata provider fee paid by the contract holder, if any. If coverage under the vehicle value  
22 protection agreement continues after a claim, any refund may deduct claims paid. A reasonable  
23 administrative fee may be charged by the provider up to seventy-five dollars; and

24       (9) A statement that the agreement is not an insurance contract.

25       407.2075. The provisions of sections 407.2070 and 407.2080 shall not apply to vehicle  
26 value protection agreements offered in connection with a commercial transaction.

27       407.2080. The attorney general may take action that is necessary or appropriate to enforce  
28 the provisions of sections 407.2020 to 407.2090 and to protect motor vehicle financial protection  
29 product consumers in this state. After proper notice and opportunity for hearing, the attorney  
30 general may:

31       (1) Order the creditor, provider, administrator, or any other person not in compliance with  
32 the provisions of sections 407.2020 to 407.2090 to cease and desist from product-related operations  
33 that are in violation of the provisions of sections 407.2020 to 407.2090; and

34       (2) Impose a penalty of not more than five hundred dollars for each violation of the  
35 provisions of sections 407.2020 to 407.2090 and not more than ten thousand dollars in the aggregate  
36 for all violations of a similar nature. A violation shall be considered of a similar nature to another  
37 violation if the violation consists of the same or similar course of conduct, action, or practice,  
38 irrespective of the number of times the action, conduct, or practice that is determined to be a  
39 violation of the provisions of sections 407.2020 to 407.2090 occurred.

1        407.2085. Notwithstanding the provisions of section 407.2090, all motor vehicle financial  
2 protection products issued before and on and after August 28, 2023, shall not be considered  
3 insurance.

4        407.2090. The provisions of sections 407.2020 to 407.2090 shall apply to all motor vehicle  
5 financial protection products that become effective after February 23, 2024."; and

6  
7 Further amend said bill by amending the title, enacting clause, and intersectional references  
8 accordingly.