

HB215 INTRODUCED



1 JPCWFN-1
2 By Representative Ingram
3 RFD: Insurance
4 First Read: 23-Mar-23
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SYNOPSIS:

Under existing law, motor vehicle value protection agreements are authorized in motor vehicle consumer credit financing transactions to pay deficiency balances due under certain conditions.

Under existing law, the provider of a motor vehicle value protection agreement is required to insure its agreement under an insurance policy or meet certain other financial requirements.

This bill would clarify that the insurance policy would be for the purpose of paying or reimbursing obligations under a motor vehicle value protection agreement in the event the provider fails to perform the obligations.

A BILL
TO BE ENTITLED
AN ACT

Relating to consumer credit financing in the sale or lease of motor vehicles; to amend Section 8-37A-4 of the Code of Alabama 1975, as added by Act 2022-179 of the 2022 Regular



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29 Session, relating to motor vehicle value protection agreements
30 and the requirements of a provider of the agreements to insure
31 performance of the obligations of the provider; to further
32 clarify the requirements of an insurance policy maintained by
33 the provider for this purpose.

34 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

35 Section 1. Section 8-37A-4 of the Code of Alabama
36 1975, as added by Act 2022-179 of the 2022 Regular Session, is
37 amended to read as follows:

38 "§8-37A-4

39 In order to assure the faithful performance of the
40 obligations of a provider to its contract holders, the
41 provider shall comply with one of the following:

42 (1)a. Insure all of its motor vehicle value protection
43 agreements under an insurance policy that pays or reimburses
44 the obligations of a provider under any motor vehicle value
45 protection agreements of the provider in the event the
46 provider fails to perform its obligations. The insurance
47 policy shall be issued by an insurer licensed, registered, or
48 otherwise authorized to do business in this state at the time
49 the policy is filed with the Commissioner of Insurance and
50 continuously thereafter, that meets one of the following
51 criteria:

52 1. Has a surplus as to policyholders and paid-in
53 capital of at least fifteen million dollars (\$15,000,000).

54 2. Has a surplus as to policyholders and paid-in
55 capital of not less than ten million dollars (\$10,000,000),
56 and evidence to the satisfaction of the commissioner that the



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57 company maintains a ratio of net written premiums, wherever
58 written, to surplus as to policyholders and paid-in capital of
59 not greater than three to one.

60 b. In addition, the insurer shall annually file with
61 the commissioner copies of the insurer's audited financial
62 statements, its NAIC Annual Statement, and the actuarial
63 certification required by and filed in the insurer's state of
64 domicile.

65 (2)a. Maintain a funded reserve account for its
66 obligations under its contracts issued and outstanding in this
67 state. The reserves shall not be less than 40 percent of gross
68 consideration received, less claims paid, on the sale of the
69 motor vehicle value protection agreement for all in-force
70 contracts. The reserve account shall be subject to examination
71 and review by the Superintendent of Banks; and

72 b. Place in trust with the superintendent a financial
73 security deposit, having a value of not less than five percent
74 of the gross consideration received, less claims paid, on the
75 sale of the motor vehicle value protection agreements for all
76 agreements issued and in force, but not less than twenty-five
77 thousand dollars (\$25,000) consisting of one of the following:

- 78 1. A surety bond issued by an authorized surety.
- 79 2. Securities of the type eligible for deposit by
80 authorized insurers in this state.
- 81 3. Cash.
- 82 4. A letter of credit issued by a qualified financial
83 institution.
- 84 5. Another form of security prescribed by regulations



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85 issued by the superintendent.

86 (3)a. Maintain, or together with its parent company
87 maintain, a net worth or stockholders' equity of one hundred
88 million dollars (\$100,000,000); and

89 b. Upon request, provide the Superintendent of Banks
90 with a copy of the provider's or the provider's parent
91 company's most recent Form 10-K or Form 20-F filed with the
92 Securities and Exchange Commission (SEC) within the last
93 calendar year, or if the company does not file with the SEC, a
94 copy of the company's audited financial statements that shows
95 a net worth of the provider or its parent company of at least
96 one hundred million dollars (\$100,000,000). If the provider's
97 parent company's Form 10-K, Form 20-F, or financial statements
98 are filed to meet the provider's financial security
99 requirement, then the parent company shall agree to guarantee
100 the obligations of the provider relating to motor vehicle
101 value protection agreements sold by the provider in this
102 state."

103 Section 2. This act shall become effective immediately
104 following its passage and approval by the Governor, or its
105 otherwise becoming law.