

# SB15 INTRODUCED



- 1 U9CEGX-1
- 2 By Senator Shelnuttt
- 3 RFD: Banking and Insurance
- 4 First Read: 07-Mar-23
- 5 PFD: 22-Feb-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 Session, relating to motor vehicle value protection agreements and the requirements of a provider of the agreements to insure



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29 performance of the obligations of the provider; to further  
30 clarify the requirements of an insurance policy maintained by  
31 the provider for this purpose.

32 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

33 Section 1. Section 8-37A-4 of the Code of Alabama  
34 1975, as added by Act 2022-179 of the 2022 Regular Session, is  
35 amended to read as follows:

36 "§8-37A-4

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

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

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

52 2. Has a surplus as to policyholders and paid-in  
53 capital of not less than ten million dollars (\$10,000,000),  
54 and evidence to the satisfaction of the commissioner that the  
55 company maintains a ratio of net written premiums, wherever  
56 written, to surplus as to policyholders and paid-in capital of



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57 not greater than three to one.

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

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

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

76           1. A surety bond issued by an authorized surety.

77           2. Securities of the type eligible for deposit by  
78 authorized insurers in this state.

79           3. Cash.

80           4. A letter of credit issued by a qualified financial  
81 institution.

82           5. Another form of security prescribed by regulations  
83 issued by the superintendent.

84           (3)a. Maintain, or together with its parent company



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85 maintain, a net worth or stockholders' equity of one hundred  
86 million dollars (\$100,000,000); and

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

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