

HOUSE RESEARCH

Bill Summary

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Overview

This bill allows guaranteed asset protection waivers (“GAP waivers”) to be sold by a creditor when a motor vehicle is sold, financed, or leased through that creditor. GAP waivers provide that, if the motor vehicle is a total loss or is stolen, then an amount outstanding under the related finance agreement will be waived.

Section

1 Application. Clarifies that GAP waivers are not insurance, and that this chapter does not apply to policies of insurance, a debt cancellation/suspension contracts offered by a bank or credit union, or debt cancellations/suspensions sold in a commercial capacity.

2 Definitions. Provides definitions for this chapter, including:

Subd. 6 Finance agreement. A finance agreement is a loan, lease, or installment contract for the purchase or lease of a motor vehicle.

Subd. 7 Free look period. A free look period is not less than 30 days, and is the time from the effective date of the GAP waiver until the borrower can cancel the contract without paying anything.

Subd. 8 GAP waiver. A GAP waiver is a contract wherein a creditor agrees, for a fee, to cancel or waive an amount due under a finance agreement if the financed or leased motor vehicle has suffered total physical damage, or been stolen.

Subd. 10 Motor vehicle. A motor vehicle includes a variety of vehicles used by consumers, including motorcycles, snowmobiles, as well as trailers.

Section

- 3** **Commercial exemption.** Exempts commercial GAP waivers from the disclosure and contract term requirements in sections 4 and 6.
- 4** **GAP waivers.** Allows GAP waivers, whether on a one-time or a periodic payment basis, to be sold in Minnesota. Requires retail motor vehicle sellers to insure their GAP waiver obligations. Includes requirements as to whom the GAP waiver must be provided to, purchase restrictions, reporting requirements, and the classification of costs.
- 5** **GAP waiver insurance.** Requires the insurance policies covering GAP waivers to include the sum which would be waived, cover subsequent assignments of the finance agreement, and remain in effect unless canceled or terminated.
- 6** **Disclosures.** Requires creditors to provide written disclosures about the GAP waiver to the borrower in easy to read language. The disclosures must include the name of the creditor and borrower, the purchase price and term (including coverage, conditions, and exclusions), and how to apply for benefits. The disclosures must also inform the borrower that they can cancel the GAP waiver within the free look period, whether and how the borrower can cancel after the free look period, the method for calculating a refund, and that the sale/finance of the motor vehicle was not conditioned on the purchase of the GAP waiver.
- 7** **Cancellation; refunds.** Provides that, if a GAP waiver is cancelled after the free look period, then the borrower could be entitled to a refund of a portion of the purchase price of the GAP waiver. Allows the creditor to apply any refund due to the amount outstanding under the finance agreement if the GAP waiver was cancelled because there was a default under the finance agreement, or the motor vehicle was repossessed.