

SB15 ENROLLED



1 U9CEGX-2
2 By Senator Shelnuttt
3 RFD: Banking and Insurance
4 First Read: 07-Mar-23
5 2023 Regular Session



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1 Enrolled, An Act,

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4 Relating to consumer credit financing in the sale or
5 lease of motor vehicles; to amend Section 8-37A-4 of the Code
6 of Alabama 1975, as added by Act 2022-179 of the 2022 Regular
7 Session, relating to motor vehicle value protection agreements
8 and the requirements of a provider of the agreements to insure
9 performance of the obligations of the provider; to further
10 clarify the requirements of an insurance policy maintained by
11 the provider for this purpose.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 8-37A-4 of the Code of Alabama
14 1975, as added by Act 2022-179 of the 2022 Regular Session, is
15 amended to read as follows:

16 "§8-37A-4

17 In order to assure the faithful performance of the
18 obligations of a provider to its contract holders, the
19 provider shall comply with one of the following:

20 (1)a. Insure all of its motor vehicle value protection
21 agreements under an insurance policy that pays or reimburses
22 the obligations of a provider under any motor vehicle value
23 protection agreements of the provider in the event the
24 provider fails to perform its obligations. The insurance
25 policy shall be issued by an insurer licensed, registered, or
26 otherwise authorized to do business in this state at the time
27 the policy is filed with the Commissioner of Insurance and
28 continuously thereafter, that meets one of the following



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29 criteria:

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

32 2. Has a surplus as to policyholders and paid-in
33 capital of not less than ten million dollars (\$10,000,000),
34 and evidence to the satisfaction of the commissioner that the
35 company maintains a ratio of net written premiums, wherever
36 written, to surplus as to policyholders and paid-in capital of
37 not greater than three to one.

38 b. In addition, the insurer shall annually file with
39 the commissioner copies of the insurer's audited financial
40 statements, its NAIC Annual Statement, and the actuarial
41 certification required by and filed in the insurer's state of
42 domicile.

43 (2)a. Maintain a funded reserve account for its
44 obligations under its contracts issued and outstanding in this
45 state. The reserves shall not be less than 40 percent of gross
46 consideration received, less claims paid, on the sale of the
47 motor vehicle value protection agreement for all in-force
48 contracts. The reserve account shall be subject to examination
49 and review by the Superintendent of Banks; and

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

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



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57 2. Securities of the type eligible for deposit by
58 authorized insurers in this state.

59 3. Cash.

60 4. A letter of credit issued by a qualified financial
61 institution.

62 5. Another form of security prescribed by regulations
63 issued by the superintendent.

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

67 b. Upon request, provide the Superintendent of Banks
68 with a copy of the provider's or the provider's parent
69 company's most recent Form 10-K or Form 20-F filed with the
70 Securities and Exchange Commission (SEC) within the last
71 calendar year, or if the company does not file with the SEC, a
72 copy of the company's audited financial statements that shows
73 a net worth of the provider or its parent company of at least
74 one hundred million dollars (\$100,000,000). If the provider's
75 parent company's Form 10-K, Form 20-F, or financial statements
76 are filed to meet the provider's financial security
77 requirement, then the parent company shall agree to guarantee
78 the obligations of the provider relating to motor vehicle
79 value protection agreements sold by the provider in this
80 state."

81 Section 2. This act shall become effective immediately
82 following its passage and approval by the Governor, or its
83 otherwise becoming law.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB15

Senate 25-Apr-23

I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives

Passed: 25-May-23

By: Senator Shelnut