

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-0197.02 Jery Payne x2157

SENATE BILL 23-015

SENATE SPONSORSHIP

Rodriguez and Will,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING VEHICLE VALUE PROTECTION AGREEMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

A vehicle value protection agreement (agreement) is a contract that provides benefits when an owner of a vehicle replaces the vehicle at trade-in, when the vehicle is stolen, or after an adverse event that lowers the value of the vehicle. An agreement is declared to not be insurance or subject to regulation as insurance if offered in compliance with the bill.

A person who provides an agreement (provider) is prohibited from conditioning the extension of credit, the terms of credit, or the terms of a vehicle sale or lease upon the purchase of an agreement. To be issued,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
2nd Reading Unamended
February 7, 2023

an agreement must:

- Provide a benefit to the consumer upon the trade-in, total loss, or unrecovered theft of a covered vehicle;
- Identify the administrator or provider, the seller, the consumer, and the terms of the sale;
- Guarantee the provider's obligations by an insurance policy; and
- Notify the consumer of the agreement's terms, including cancellation terms.

To cancel an agreement, the provider must mail a notice to the consumer at least 5 days prior to cancellation; except that the cancellation takes effect immediately if the reason for the cancellation is nonpayment, a material misrepresentation, or a substantial breach of duties by the consumer. If an agreement is canceled by the provider for a reason other than nonpayment of the provider fee, the provider is required to make a refund minus actual paid benefits, but the provider may charge a reasonable administrative fee of up to \$75.

The provider is required to guarantee the provider's obligations by an insurance policy that pays the consumer. The insurance policy must provide that:

- The insurer will pay if the provider fails to perform its obligations under the agreement; and
- The consumer may file a claim directly with the insurer for reimbursement.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 21 to title
3 42 as follows:

4 **ARTICLE 21**

5 **Vehicle Value Protection Agreements**

6 **42-21-101. Definitions.** AS USED IN THIS ARTICLE 21, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "ADMINISTRATOR" MEANS THE PERSON THAT IS RESPONSIBLE
9 FOR THE ADMINISTRATIVE OR OPERATIONAL FUNCTIONS OF A VEHICLE
10 VALUE PROTECTION AGREEMENT. THESE FUNCTIONS INCLUDE THE
11 ADJUDICATION OF BENEFIT REQUESTS BY CONTRACT HOLDERS.

1 (2) "CONTRACT HOLDER" MEANS A PERSON THAT IS THE
2 PURCHASER OF OR HOLDER OF A VEHICLE VALUE PROTECTION AGREEMENT.

3 (3) "COVERED VEHICLE" MEANS A VEHICLE THAT IS THE SUBJECT
4 OF A VEHICLE VALUE PROTECTION AGREEMENT.

5 (4) "DEALER" MEANS:

6 (a) A MOTOR VEHICLE DEALER AS DEFINED IN SECTION 44-20-102
7 (18);

8 (b) A POWERSPORTS VEHICLE DEALER AS DEFINED IN SECTION
9 44-20-402 (12);

10 (c) A USED MOTOR VEHICLE DEALER AS DEFINED IN SECTION
11 44-20-102 (26); OR

12 (d) A USED POWERSPORTS VEHICLE DEALER AS DEFINED IN SECTION
13 44-20-402 (20).

14 (5) "FINANCE AGREEMENT" MEANS A LOAN AGREEMENT FOR THE
15 PURCHASE OR REFINANCING OF A VEHICLE; A RETAIL INSTALLMENT SALES
16 CONTRACT FOR THE PURCHASE, REFINANCING, OR LEASE OF A VEHICLE; OR
17 AN AGREEMENT TO LEASE A VEHICLE.

18 (6) "INSURER" MEANS A LICENSED INSURANCE COMPANY
19 AUTHORIZED TO ISSUE CONTRACTUAL LIABILITY INSURANCE UNDER TITLE
20 10.

21 (7) "PROVIDER" MEANS A PERSON THAT IS OBLIGATED TO PROVIDE
22 A BENEFIT IN ACCORDANCE WITH A VEHICLE VALUE PROTECTION
23 AGREEMENT.

24 (8) "SECURE BILL OF SALE" IS AN AGREEMENT BETWEEN A DEALER
25 AND A CONTRACT HOLDER THAT:

26 (a) IDENTIFIES THE VEHICLE BY YEAR, MAKE, AND VIN OR BY
27 OTHER IDENTIFYING INFORMATION;

- 1 (b) SHOWS THE TIME AND DATE OF SALE; AND
- 2 (c) IS SIGNED BY BOTH THE BUYER AND THE SELLER.
- 3 (9) "VEHICLE" MEANS:
- 4 (a) A MOTOR VEHICLE AS DEFINED IN SECTION 42-1-102 (58);
- 5 (b) A POWERSPORTS VEHICLE AS DEFINED IN SECTION 44-20-402
- 6 (11);
- 7 (c) A CAMPER COACH AS DEFINED IN SECTION 42-1-102 (13); OR
- 8 (d) A CAMPER TRAILER AS DEFINED IN SECTION 42-1-102 (14).
- 9 (10) (a) "VEHICLE VALUE PROTECTION AGREEMENT" MEANS A
- 10 CONTRACTUAL AGREEMENT BETWEEN A PROVIDER AND A CONTRACT
- 11 HOLDER THAT PROVIDES BENEFITS APPLIED TOWARD:
- 12 (I) THE VALUE OF THE CONTRACT HOLDER'S COVERED VEHICLE
- 13 UPON THE OCCURRENCE OF THE FOLLOWING:
- 14 (A) AN ADVERSE EVENT, INCLUDING DAMAGE INCURRED AND
- 15 REPORTED ON A VEHICLE HISTORY REPORT, CAUSING THE COVERED
- 16 VEHICLE TO DECREASE IN VALUE;
- 17 (B) THE TOTAL LOSS OR UNRECOVERED THEFT OF THE COVERED
- 18 VEHICLE THAT, AT THE TIME OF THE LOSS OR THEFT, HAD DECREASED IN
- 19 VALUE COMPARED TO THE VALUE OF THE VEHICLE AT THE TIME IT WAS
- 20 PURCHASED; OR
- 21 (C) EVENTS COVERED BY A CONTRACTUAL AGREEMENT BETWEEN
- 22 A DEALER AND A CONTRACT HOLDER THAT PROVIDE THE CONTRACT
- 23 HOLDER A LOYALTY BENEFIT WHEN THE CONTRACT HOLDER RETURNS TO
- 24 THE DEALER TO PURCHASE OR LEASE A REPLACEMENT VEHICLE AFTER A
- 25 TOTAL LOSS, UNRECOVERED THEFT, OR TRADE-IN OF THE COVERED
- 26 VEHICLE; OR
- 27 (II) THE FINANCE AGREEMENT FOR OR SECURE BILL OF SALE ON A

1 REPLACEMENT VEHICLE UPON THE OCCURRENCE OF AN EVENT DESCRIBED
2 IN SUBSECTIONS (10)(a)(I)(A) TO (10)(a)(I)(C) OF THIS SECTION.

3 (b) "VEHICLE VALUE PROTECTION AGREEMENT" INCLUDES A
4 TRADE-IN AGREEMENT, DIMINISHED VALUE AGREEMENT, CASH DOWN
5 PAYMENT PROTECTION AGREEMENT, OR DEPRECIATION BENEFIT
6 AGREEMENT.

7 (c) "VEHICLE VALUE PROTECTION AGREEMENT" DOES NOT INCLUDE
8 A DEBT WAIVER OR A MOTOR VEHICLE SERVICE CONTRACT AS DEFINED IN
9 SECTION 42-11-101 (3).

10 **42-21-102. Requirements for offering vehicle value protection**

11 **agreements.** (1) A PROVIDER SHALL NOT OFFER A VEHICLE VALUE
12 PROTECTION AGREEMENT UNLESS THE AGREEMENT MEETS THE
13 REQUIREMENTS OF THIS ARTICLE 21. A PROVIDER SHALL NOT CONDITION
14 THE EXTENSION OF CREDIT, THE TERMS OF CREDIT, OR THE TERMS OF THE
15 RELATED VEHICLE SALE OR LEASE UPON THE PURCHASE OF A VEHICLE
16 VALUE PROTECTION AGREEMENT.

17 (2) TO COMPLY WITH THIS SECTION, A VEHICLE VALUE PROTECTION
18 AGREEMENT MUST:

19 (a) PROVIDE A BENEFIT TO THE CONTRACT HOLDER UPON THE
20 TRADE-IN, TOTAL LOSS, OR UNRECOVERED THEFT OF A COVERED VEHICLE.

21 THE BENEFIT MAY BE:

22 (I) A CREDIT TOWARD THE PURCHASE OR LEASE OF A SUBSEQUENT
23 OR REPLACEMENT VEHICLE; OR

24 (II) AN AMOUNT APPLIED TO THE CASH VALUE OF THE COVERED
25 VEHICLE AT THE TIME OF TRADE-IN;

26 (b) IDENTIFY, IN THE CONTRACT, THE ADMINISTRATOR OR
27 PROVIDER, THE DEALER, THE CONTRACT HOLDER, AND THE TERMS OF THE

1 SALE;

2 (c) (I) GUARANTEE THE PROVIDER'S OBLIGATIONS BY AN
3 INSURANCE POLICY THAT COMPLIES WITH SECTION 42-21-105; AND

4 (II) CONSPICUOUSLY STATE THAT THE PROVIDER'S OBLIGATIONS
5 ARE GUARANTEED BY AN INSURANCE POLICY, ISSUED BY AN INSURER,
6 THAT PAYS THE CONTRACT HOLDER IF THE PROVIDER FAILS TO PERFORM
7 ITS OBLIGATIONS UNDER THE VEHICLE VALUE PROTECTION AGREEMENT;

8 (d) OUTLINE THE TERMS, INCLUDING THE PURCHASE PRICE OF THE
9 COVERED VEHICLE AND ANY ELIGIBILITY REQUIREMENTS, CONDITIONS OF
10 COVERAGE, OR EXCLUSIONS, OF THE VEHICLE VALUE PROTECTION
11 AGREEMENT;

12 (e) NOTIFY THE CONTRACT HOLDER OF THE FOLLOWING:

13 (I) WHETHER THE VEHICLE VALUE PROTECTION AGREEMENT IS
14 CANCELLABLE AND THE PROCEDURES FOR REQUESTING ANY REFUND OF
15 THE UNEARNED PURCHASE PRICE OF THE AGREEMENT PAID BY THE
16 CONTRACT HOLDER;

17 (II) THE METHODOLOGY FOR CALCULATING ANY REFUND OF THE
18 UNEARNED PURCHASE PRICE OF THE VEHICLE VALUE PROTECTION
19 AGREEMENT AFTER THE AGREEMENT IS CANCELED;

20 (III) ANY PROCEDURES THE CONTRACT HOLDER MUST FOLLOW TO
21 OBTAIN A BENEFIT UNDER THE TERMS AND CONDITIONS OF THE VEHICLE
22 VALUE PROTECTION AGREEMENT AND, IF APPLICABLE, A TELEPHONE
23 NUMBER, WEBSITE, AND ADDRESS WHERE THE CONTRACT HOLDER MAY
24 APPLY FOR A BENEFIT; AND

25 (IV) THAT NEITHER THE EXTENSION OF CREDIT, THE TERMS OF
26 CREDIT, NOR THE TERMS OF THE RELATED VEHICLE SALE OR LEASE MAY BE
27 CONDITIONED UPON THE PURCHASE OF THE VEHICLE VALUE PROTECTION

1 AGREEMENT; AND

2 (f) STATE THE TERMS, RESTRICTIONS, AND CONDITIONS
3 GOVERNING CANCELLATION OF THE VEHICLE VALUE PROTECTION
4 AGREEMENT PRIOR TO THE TERMINATION DATE OF THE AGREEMENT BY
5 EITHER THE PROVIDER OR THE CONTRACT HOLDER.

6 **42-21-103. Requirements for a provider to cancel a vehicle**
7 **value protection agreement.** (1) (a) TO CANCEL A VEHICLE VALUE
8 PROTECTION AGREEMENT, THE PROVIDER MUST MAIL A WRITTEN NOTICE
9 TO THE CONTRACT HOLDER AT THE LAST-KNOWN ADDRESS OF THE
10 CONTRACT HOLDER CONTAINED IN THE RECORDS OF THE PROVIDER AT
11 LEAST FIVE DAYS PRIOR TO CANCELLATION BY THE PROVIDER; EXCEPT
12 THAT THE CANCELLATION TAKES EFFECT IMMEDIATELY UPON THE
13 PROVIDER SENDING THE NOTICE TO THE CONTRACT HOLDER IF THE REASON
14 FOR THE CANCELLATION IS:

15 (I) NONPAYMENT OF ANY PROVIDER FEE REQUIRED TO BE PAID BY
16 THE CONTRACT HOLDER;

17 (II) A MATERIAL MISREPRESENTATION BY THE CONTRACT HOLDER
18 TO THE PROVIDER; OR

19 (III) A SUBSTANTIAL BREACH OF DUTIES BY THE CONTRACT
20 HOLDER RELATING TO THE COVERED VEHICLE OR ITS USE.

21 (b) THE NOTICE MUST STATE THE EFFECTIVE DATE OF THE
22 CANCELLATION AND THE REASON FOR THE CANCELLATION.

23 (2) (a) IF A VEHICLE VALUE PROTECTION AGREEMENT IS CANCELED
24 BY THE PROVIDER FOR A REASON OTHER THAN NONPAYMENT OF THE
25 PROVIDER FEE, THE PROVIDER SHALL REFUND TO THE CONTRACT HOLDER,
26 ON A PRO RATA BASIS, ANY UNEARNED PROVIDER FEE PAID BY THE
27 CONTRACT HOLDER; EXCEPT THAT THE PROVIDER MAY CHARGE A

1 REASONABLE ADMINISTRATIVE FEE OF UP TO SEVENTY-FIVE DOLLARS.

2 (b) IF COVERAGE UNDER THE VEHICLE VALUE PROTECTION
3 AGREEMENT CONTINUED AFTER A BENEFIT WAS PAID UNDER THE
4 AGREEMENT, THE PROVIDER MAY DEDUCT THE AMOUNT OF THE BENEFIT
5 PAID FROM THE REFUND TO THE CONTRACT HOLDER.

6 **42-21-104. Third-party administrator.** A PROVIDER MAY
7 PERFORM AS AN ADMINISTRATOR OR RETAIN THE SERVICES OF A
8 THIRD-PARTY ADMINISTRATOR. AN ADMINISTRATOR HAS THE SAME
9 POWERS AND DUTIES ESTABLISHED UNDER THIS ARTICLE 21 AS A
10 PROVIDER.

11 **42-21-105. Vehicle value protection agreements - contractual**
12 **liability insurance policies.** (1) A PROVIDER SHALL GUARANTEE THE
13 PROVIDER'S OBLIGATIONS BY AN INSURANCE POLICY, ISSUED BY AN
14 INSURER, THAT PAYS THE CONTRACT HOLDER IF THE PROVIDER FAILS TO
15 PERFORM THE OBLIGATIONS IN ACCORDANCE WITH THE VEHICLE VALUE
16 PROTECTION AGREEMENT.

17 (2) TO COMPLY WITH THIS SECTION, AN INSURANCE POLICY
18 REQUIRED IN SUBSECTION (1) OF THIS SECTION MUST PROVIDE THAT:

19 (a) IF THE PROVIDER FAILS TO PERFORM ITS OBLIGATIONS UNDER
20 THE VEHICLE VALUE PROTECTION AGREEMENT, THE CONTRACTUAL
21 LIABILITY INSURER WILL PAY ALL COVERED AMOUNTS THAT THE PROVIDER
22 IS LEGALLY OBLIGATED TO PAY ACCORDING TO THE AGREEMENT; AND

23 (b) THE CONTRACT HOLDER MAY FILE DIRECTLY WITH THE INSURER
24 FOR REIMBURSEMENT IF THE PAYMENT DUE UNDER THE TERMS OF THE
25 VEHICLE VALUE PROTECTION AGREEMENT IS NOT MADE BY THE PROVIDER
26 WITHIN SIXTY DAYS AFTER PROOF OF LOSS OR TRADE-IN OF THE COVERED
27 VEHICLE HAS BEEN FILED IN ACCORDANCE WITH THE TERMS OF THE

1 AGREEMENT.

2 **42-21-106. Vehicle value protection agreements not insurance.**

3 A VEHICLE VALUE PROTECTION AGREEMENT THAT COMPLIES WITH THIS
4 ARTICLE 21 IS NOT INSURANCE AND IS EXEMPT FROM REGULATION AS
5 INSURANCE PURSUANT TO TITLE 10.

6 **SECTION 2. Act subject to petition - effective date -**

7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly; except that, if a referendum petition is filed pursuant
10 to section 1 (3) of article V of the state constitution against this act or an
11 item, section, or part of this act within such period, then the act, item,
12 section, or part will not take effect unless approved by the people at the
13 general election to be held in November 2024 and, in such case, will take
14 effect on the date of the official declaration of the vote thereon by the
15 governor.

16 (2) This act applies to vehicle value protection agreements made
17 on or after the applicable effective date of this act.