Article 49.

Vehicle Value Protection Agreements.

§ 66-480. Scope.

The purpose of this Article is to provide a framework within which vehicle value protection agreements are defined and may be offered within this State. (2021-172, s. 3.)

§ 66-481. Definitions.

The following definitions apply in this Article:

(1) Administrator. – The person responsible for the administrative or operational functions of vehicle value protection agreements, including, but not limited to, the adjudication of claims or benefit requests by contract holders.

(2) Commercial. – A transaction wherein the motor vehicle will primarily be used for business purposes rather than personal.

(3) Contract holder. – A person who is the purchaser or holder of a vehicle value protection agreement.

(4) Finance agreement. – A loan, retail installment sales contract, or lease for the purchase, refinancing, or lease of a motor vehicle.

(5) Free-look period. – The period of time from the effective date of the vehicle value protection agreement until the date the vehicle value protection agreement may be canceled without penalty, fees, or costs.

(6) Insurer. – An insurance company licensed, registered, or otherwise authorized to issue contractual liability insurance under the insurance laws of this State.

(7) Motor vehicle. – Self-propelled or towed vehicles designed for personal or commercial use, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and related trailers.

(8) Person. – Includes an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

(9) Provider. – A person that is obligated to provide a benefit under a vehicle value protection agreement.

(10) Vehicle value protection agreement. – Includes a contractual agreement that provides a benefit towards either the reduction of some or all of the contract holder's current finance agreement deficiency balance, or towards the purchase or lease of a replacement motor vehicle or purchase of motor vehicle services, upon the occurrence of an adverse event to the motor vehicle, including, but not limited to, a less than total physical damage loss or diminished value or depreciation. An agreement may include related agreements such as trade-in credit agreements, diminished value agreements, depreciation benefit agreements, or other similarly named agreements. The term does not include a guaranteed asset protection waiver as defined in G.S. 66-440(5). (2021-172, s. 3.)

§ 66-482. Requirements for offering vehicle value protection agreements.

(a) Vehicle value protection agreements in compliance with this Article may be offered, sold, or given to consumers in this State.

(b) A provider may perform as an administrator or may utilize a third-party administrator or other designee to be responsible for any and all of the administration of vehicle value protection agreements in compliance with this Article.

(c) A contract holder that has been sold a vehicle value protection agreement shall be given or provided access to a copy of the agreement.

(d) Notwithstanding any other provision of law to the contrary, any amount charged or financed for a vehicle value protection agreement is an authorized charge that must be separately stated and is not to be considered a finance charge or interest. The amount charged or financed for the agreement may be included within the amount financed under G.S. 25A-9 and shall not be considered a part of the finance charge or interest thereunder.

(e) In order to assure the faithful performance of the provider's obligations to its contract holders, each provider shall comply with one of the following requirements:

(1) Reimbursement insurance policy. – The insurance of all of vehicle value protection agreements under a reimbursement insurance policy issued by an insurer licensed, registered, or otherwise authorized to do business in this State that meets one of the following criteria:

a. The insurer issuing the reimbursement policy must continuously maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars ($15,000,000).

b. The insurer issuing the reimbursement insurance policy must continuously maintain surplus as to policyholders and paid-in capital of less than fifteen million dollars ($15,000,000) but at least ten million dollars ($10,000,000), and the company maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three-to-one (3:1).

(2) Maintenance of net worth. – A provider shall do all of the following:

a. Maintain, or together with its parent company maintain, a net worth or stockholders' equity of at least one hundred million dollars ($100,000,000).

b. Maintain a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least one hundred million dollars ($100,000,000). If the provider's parent company's Form 10-K, Form 20-F, or financial statements are utilized to meet the provider's financial security requirement, then the parent company shall agree to guarantee the obligations of the provider relating to vehicle value protection agreements sold by the provider in this State.

Except for the requirements specified in this subsection, no other financial security requirements shall be required for vehicle value protection agreement providers.

(f) Neither the extension of credit, nor the terms of credit, nor the terms of the related motor vehicle sale or lease shall be conditioned upon the consumer's payment for or financing of any charge for a vehicle value protection agreement. Vehicle value protection agreements may be

discounted or given at no charge in connection with the purchase of other noncredit-related goods or services.

(g) A vehicle value protection agreement shall include a term stating that if a contract holder cancels the agreement within the free-look period, the contract holder will be entitled to a full refund of the purchase price paid by the contract holder, if any, so long as no benefits have been provided. A free-look period must be at least 30 days.

(h) If the provider of the vehicle value protection agreement cancels the agreement, the provider shall mail a written notice to the contract holder at the last known address of the contract holder contained in the records of the provider at least five days prior to cancellation. Prior notice to the contract holder is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the contract holder to the provider or administrator, or a substantial breach of duties by the contract holder relating to the covered product or its use. The notice shall state the effective date of the cancellation and the reason for the cancellation. If a vehicle value protection agreement is cancelled by the provider for a reason other than nonpayment of the provider fee, the provider shall refund to the contract holder one hundred percent (100%) of the unearned pro rata provider fee paid by the contract holder, if any. If coverage under the vehicle value protection agreement continues after a claim, then any refund may deduct claims paid. A reasonable administrative fee, not exceeding seventy-five dollars ($75.00), may be charged by the provider. (2021-172, s. 3.)

§ 66-483. Disclosures.

Vehicle value protection agreements must disclose in writing and in clear, understandable language that is easy to read, all of the following:

(1) The name and address of the provider, contract holder, and administrator, if any.

(2) The terms of the vehicle value protection agreement, including, without limitation, the purchase price to be paid by the contract holder, if any, the requirements for eligibility, conditions of coverage, and exclusions.

(3) A statement that the vehicle value protection agreement may be cancelled by the contract holder within a free-look period as specified in the vehicle value protection agreement, and that, if cancelled, the contract holder will be entitled to a full refund of the purchase price paid by the contract holder, if any, so long as no benefits have been provided.

(4) The procedure the contract holder must follow, if any, to obtain a benefit under the terms and conditions of the vehicle value protection agreement, including, if applicable, a telephone number or website and address where the contract holder may apply for a benefit.

(5) Whether the vehicle value protection agreement is cancellable after the free-look period and the conditions under which it may be cancelled, including the procedures for requesting any refund of the unearned purchase price paid by the contract holder.

(6) In the event of cancellation, the methodology for calculating any refund of the unearned purchase price of the vehicle value protection agreement due.

(7) A statement that neither the extension of credit, nor the terms of the credit, nor the terms of the related motor vehicle sale or lease may be conditioned upon the purchase of the vehicle value protection agreement.

(8) A statement of the terms, restrictions, or conditions governing cancellation of the vehicle value protection agreement prior to the termination or expiration date of the vehicle value protection agreement by either the provider or the contract holder. (2021-172, s. 3.)

§ 66-484. Commercial transaction exemptions.

G.S. 66-473(5) and (7) shall not apply to vehicle value protection agreements offered in connection with a commercial transaction. (2021-172, s. 3.)

§ 66-485. Enforcement.

The Attorney General may take action necessary or appropriate to enforce the provisions of this Article and to protect vehicle value protection agreement consumers in this State. After proper notice and opportunity for hearing, the Attorney General may do the following:

(1) Order the creditor, provider, administrator, or any other person not in compliance with this Article to cease and desist from product-related operations which are in violation of this Article.

(2) Impose a penalty of not more than five hundred dollars ($500.00) per violation and no more than ten thousand dollars ($10,000) in the aggregate for all violations of a similar nature. For purposes of this section, violations are of a similar nature if the violation consists of the same or similar course of conduct, action, or practice, irrespective of the number of times the action, conduct, or practice which is determined to be a violation of this Article occurred. (2021-172, s. 3.)

§ 66-486. Intent.

Vehicle value protection agreements are not insurance and are exempt from the provisions of Chapter 58 of the General Statutes, as are persons administering, marketing, selling, or offering to sell vehicle value protection agreements to consumers. All vehicle value protection agreements issued prior to and after the date of enactment of this Article shall not be construed as insurance. (2021-172, s. 3.)

§ 66-487: Reserved for future codification purposes.

§ 66-488: Reserved for future codification purposes.

§ 66-489: Reserved for future codification purposes.