

House Bill 819

By: Representatives Maxwell of the 17th, Smith of the 131st, Ehrhart of the 36th, Davis of the 109th, Rice of the 51st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-7-6 of the Official Code of Georgia Annotated, relating to
2 property insurance, contract requirements, rules and regulations, and exemption, so as to
3 provide requirements for retail installment sellers to be exempted from reinsurance
4 requirements relating to vehicle service agreements or extended warranty agreements; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 33-7-6 of the Official Code of Georgia Annotated, relating to property
9 insurance, contract requirements, rules and regulations, and exemption, is amended by
10 revising paragraph (1) of subsection (b) as follows:

11 "(1) Any contract, agreement, or instrument whereby a person assumes the risk of and
12 the expense or portion thereof for the mechanical breakdown or mechanical failure of a
13 motor vehicle, or for the removal of dents, dings, or creases in a motor vehicle without
14 affecting the existing paint finish using paintless dent repair techniques or the removal
15 of small windshield chips and cracks without replacement of the entire windshield, and
16 shall include those agreements commonly known as vehicle service agreements or
17 extended warranty agreements, if made by a person other than the motor vehicle
18 manufacturer in exchange for a separately stated charge or the cost of the contract or
19 contracts is included on a nonidentifiable basis in the cost of a motor vehicle sold in
20 conjunction therewith, except that this provision shall not apply to:

21 (A) An ~~an~~ agreement underwritten by an insurer licensed to transact insurance in this
22 state, either directly or through a reinsurance contract or, without regard to the
23 requirement that the insurance cannot be obtained from an insurer authorized to do
24 business in this state as required by Code Section 33-5-21, to an agreement
25 underwritten by a surplus lines insurer which has not been rejected by the
26 Commissioner for such purpose; and

27 (B) Those agreements commonly known as vehicle service agreements or extended
28 warranty agreements which are issued, sold, or offered for sale by a retail installment
29 seller, as defined in Code Section 10-1-31, provided that such retail installment seller:
30 (i) Maintains, or has a parent company maintain, a net worth or stockholders' equity
31 of at least \$100 million, provided the parent company guarantees the obligations of
32 the retail installment seller arising from vehicle service agreements or extended
33 warranty agreements underwritten pursuant to this subparagraph;
34 (ii) Complies with the registration requirement prescribed by the Commissioner
35 through regulation;
36 (iii) Files with the Commissioner a true and correct copy of the vehicle service
37 agreement or extended warranty agreement in a form that is consistent with the terms
38 prescribed by the Commissioner through regulation;
39 (iv) Files a copy of its Form 10-K or Form 20-F disclosure statements, or if it does
40 not file such statements with the United States Securities and Exchange Commission,
41 a copy of its audited financial statements reported on a GAAP basis. If the retail
42 installment seller's financial statements are consolidated with those of its parent
43 company, then the retail installment seller may comply with this provision by filing
44 the statements of its parent company. The statement shall be filed with the
45 Commissioner 30 days prior to the retail installment seller's initial offering or
46 delivering of a service agreement or extended warranty agreement, and thereafter, the
47 statement shall be filed with the Commissioner annually; and
48 (v) Upon the request of the Commissioner, posts a security deposit or surety bond in
49 an amount not to exceed \$250,000.00 and in the manner prescribed by the
50 Commissioner through regulation."

51 **SECTION 2.**

52 All laws and parts of laws in conflict with this Act are repealed.