

House Bill 733 (COMMITTEE SUBSTITUTE)

By: Representatives Smith of the 18th, Gambill of the 15th, and Williams of the 148th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 include in the definition of property insurance agreements that provide a reduction of the
3 amount due on a consumer's finance agreement in the event of a total physical damage loss
4 or unrecovered theft of the motor vehicle; to revise the definition of a guaranteed asset
5 protection waiver; to provide for related matters; to provide for an effective date and
6 applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

12 "(b) Property insurance also includes:

13 (1) Any contract, agreement, or instrument whereby a person assumes the risk of and the
14 expense or portion thereof for:

15 (A) The mechanical breakdown or mechanical failure of a motor vehicle; or

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- 16 (B) The repair of certain reasonable motor vehicle wear and tear sustained in ordinary
17 use, such as:
- 18 (i) The removal of dents, dings, or creases in a motor vehicle without affecting the
19 existing paint finish using paintless dent repair techniques;
 - 20 (ii) The removal of small windshield chips and cracks without replacement of the
21 entire windshield;
 - 22 (iii) The repair of rips, burns, tears, holes, and punctures to interior fabric or carpet;
 - 23 (iv) Cosmetic repair of minor scuffs, scratches, scrapes, or rash on exterior plastic
24 surfaces, including, but not limited to, bumpers;
 - 25 (v) The repair or replacement of wheels on a motor vehicle damaged as a result of
26 coming into contact with road hazards which may include, but are not limited to,
27 potholes, rocks, wood debris, metal parts, plastic, curbs, or composite scraps;
 - 28 (vi) Exterior reconditioning of foggy or yellowed headlights to restore clarity and
29 luster;;
 - 30 (vii) The repair or replacement of a motor vehicle key or key fob in the event that the
31 key or key fob becomes inoperable or is lost or stolen; ~~or~~
 - 32 (viii) The repair, replacement, or maintenance of a motor vehicle, or indemnification
33 for the repair, replacement, or maintenance for excess wear to the motor vehicle,
34 resulting in lease-end excess wear and use charges assessed by a lessor pursuant to a
35 motor vehicle lease agreement, provided that the value of any benefits under such
36 contract, agreement, or instrument shall not exceed the purchase price of the vehicle;
37 provided, further, that a person offering a cancellation or waiver of excess wear and
38 use charges in connection with a lease as described in paragraph (6) of Code Section
39 33-63-3 is not subject to this Code section; or
 - 40 (ix) The reduction of some or all of the amounts due on a consumer's finance
41 agreement in the event of a total physical damage loss or unrecovered theft of the
42 motor vehicle;

43 and shall include those agreements commonly known as vehicle service agreements or
44 extended warranty agreements, if made by a person other than the motor vehicle
45 manufacturer or a subsidiary or affiliate of the motor vehicle manufacturer in exchange
46 for a separately stated charge or the cost of the contract or contracts is included on a
47 nonidentifiable basis in the cost of a motor vehicle sold in conjunction therewith, except
48 that this paragraph shall not apply to an agreement underwritten by an insurer licensed
49 to transact insurance in this state, either directly or through a reinsurance contract or,
50 without regard to the requirement that the insurance cannot be obtained from an insurer
51 authorized to do business in this state as required by Code Section 33-5-21, to an
52 agreement underwritten by a surplus lines insurer which has not been rejected by the
53 Commissioner for such purpose;

54 (2) Any contract, agreement, or instrument whereby a person assumes the risk of and the
55 expense or portion of such expense for the structural or mechanical breakdown, loss of,
56 or damage to a one-family or two-family residential building structure or any part thereof
57 from any cause, including loss of or damage to or loss of use of the building structure or
58 major components thereof which are attached to and become a part of said structure, if
59 made by a person other than the constructing contractor or manufacturer of the building
60 structure or part thereof in exchange for a separately stated charge or the cost of the
61 contract or contracts is included on a nonidentifiable basis in the cost of such building
62 structure sold in conjunction therewith, except that this paragraph shall not apply to an
63 agreement underwritten by an insurer licensed to transact insurance in this state, either
64 directly or through a reinsurance contract or underwritten by a surplus line insurer
65 approved by the Commissioner nor shall this provision apply to an agreement: (A) the
66 performance of which is guaranteed by a surety bond executed by an authorized corporate
67 surety insurer in favor of and approved by the Commissioner in an amount of not less
68 than \$1.5 million; provided, further, that a surety bond of an additional \$100,000.00 shall
69 be required for every additional \$500,000.00 in written premium above \$2 million in

70 written premium. Any company relying upon one or more bonds pursuant to this
71 subsection shall keep such bonds or equivalent coverage in place until the expiration of
72 the contract, agreement, or instrument contemplated in this paragraph; or (B)
73 notwithstanding with a duration of 13 months or less covering damage to or loss of use
74 of the major appliances located in an existing or resold home where the performance of
75 any covered repair is guaranteed by a surety bond executed by a corporate surety insurer
76 authorized to offer surety insurance in this state in favor of the Commissioner and in an
77 amount which in the discretion of the Commissioner will provide adequate protection to
78 all the residents of this state who are covered by such agreements, provided that such
79 amount shall not be less than \$100,000.00; or

80 (3) Any contract, agreement, or instrument, other than an agreement, contract, or
81 instrument covered by paragraphs (1) and (2) of this subsection, whereby a person
82 assumes the risk of and the expense or portion thereof for the cost of repair or
83 replacement of a product if such contract, agreement, or instrument is made by a person
84 other than the manufacturer or a subsidiary or affiliate of the motor vehicle manufacturer
85 in exchange for a separately stated charge or the cost of the contract or contracts is
86 included on a nonidentifiable basis in the cost of the product sold in conjunction
87 therewith, except that this paragraph shall not apply to:

88 (A) An agreement underwritten by an insurer licensed to transact insurance in this
89 state, either directly or through a reinsurance contract;

90 (B) Any contract, agreement, or instrument relating to similar services furnished by
91 any air carrier that provides interstate air transportation;

92 (C) Any tire replacement contract, agreement, or instrument;

93 (D) A contract, agreement, or instrument whereby a retailer in the business of selling
94 consumer products or a wholly owned subsidiary of such retailer assumes the risk of
95 and the expense or portion thereof for the cost of repair or replacement of consumer
96 products where such contract, agreement, or instrument is guaranteed by a surety bond

97 executed by a corporate surety insurer authorized to offer surety insurance in this state
98 in favor of and approved by the Commissioner in an amount of not less than
99 \$100,000.00; or
100 (E) Any contract, agreement, or instrument whereby any person assumes the risk of
101 and the expense or portion of such expense for the breakdown, service, repair, or
102 replacement due to normal wear and tear or structural or inherent defect to the major
103 appliances, utility systems, and roofing system of any one-family or two-family
104 residential building structure in exchange for a separately stated consideration and does
105 not otherwise provide direct or consequential coverage under a property contract
106 defined in paragraph (1) or (2) of this subsection or the introductory language of this
107 paragraph and such contract, agreement, or instrument is guaranteed by a surety bond
108 executed by a corporate surety insurer authorized to offer surety insurance in this state
109 in favor of and approved by the Commissioner in an amount of not less than
110 \$100,000.00."

111 **SECTION 2.**

112 Said title is further amended by revising paragraph (6) of Code Section 33-63-3, relating to
113 definitions regarding guaranteed asset protection waivers, as follows:

114 "(6) 'Guaranteed asset protection waiver' means a contractual agreement wherein a
115 creditor agrees for, with or without a separate charge, to cancel or waive all or part of
116 amounts due on a borrower's finance agreement in the event of a total physical damage
117 loss or unrecovered theft of the motor vehicle, which agreement must be part of, or a
118 separate addendum to, the finance agreement or a contractual agreement wherein a
119 creditor agrees for, with or without a separate charge, to cancel or waive all or part of the
120 excess wear and use charges owed by the borrower to the creditor under the lease contract
121 when the borrower returns a leased vehicle to the creditor at termination of the lease,
122 which agreement must be part of, or a separate addendum to, the lease contract. Such

123 waiver may also provide, with or without a separate charge, a benefit that waives an
124 amount, or provides a borrower with a credit, toward the purchase of a replacement
125 vehicle."

126 **SECTION 3.**

127 This Act shall become effective on July 1, 2022, and shall apply to all applicable policies and
128 contracts issued, delivered, issued for delivery, or renewed in this state on or after such date.

129 **SECTION 4.**

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