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**TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
HOUSE ECONOMIC MATTERS COMMITTEE**

FEBRUARY 17, 2022

HOUSE BILL 587 – MOTOR VEHICLE FINANCIAL PROTECTIONS PRODUCT AGREEMENTS ACT

POSITION: LETTER OF INFORMATION

Thank you for the opportunity to provide written comments regarding HB 587 (cross-filed with SB 573). HB 587 creates a new Title 33 within the Insurance Article that establishes a regulatory framework for consumer contracts known as Motor Vehicle Financial Protection Products (MVFPP). These products, which include Debt Cancellation Agreements, Debt Waiver Agreements, Vehicle Value Protection Agreements and Excess Wear and Use Agreements are marketed to consumers at the point of sale or lease of a motor vehicle.

HB 587 does not apply to banks, credit unions and other financial institutions or their subsidiaries that offer MVFPP to consumers, ostensibly because these institutions are already regulated by other state and federal agencies. The Bill is directed primarily at MVFPP offered by or in conjunction with vehicle manufacturers and dealerships. Although MVFPP from these sources are widely in use in Maryland at this time, they are not subject to any regulatory scheme.

MVFPP are not insurance products and the providers of benefits under MVFPP are not insurance companies licensed by the Maryland Insurance Administration (MIA) or otherwise authorized to transact the business of insurance in the state. However, these products operate in a manner that is similar to “GAP” insurance in that they release the vehicle owner/lessor of certain financial obligations upon the occurrence of a specified contingency – typically the loss of the vehicle. While insurance may compensate the owner for the loss of the vehicle itself, MVFPP cancel obligations connected to the vehicle, such a vehicle purchase loan.

The MIA believes that this measure should be deferred to a summer study in order to address certain gaps in the regulatory framework and to provide the MIA and others the opportunity to delve more deeply into the broad array of products that will be subject to the regulatory scheme and to assure that the standards proposed are the appropriate standards. The adoption of a comprehensive regulatory framework for products that are not currently the subject of state regulation will require the MIA, in conjunction with stakeholders and other regulatory bodies within the state, to develop the knowledge base regarding these products and their current use in the market, product standards, marketing standards, financial responsibility standards, contract terms and conditions, a registration system and qualification standards, and enforcement standards. It is also important to assure that the MIA acquires staff with the subject matter expertise needed to assume oversight of products that are currently not within its regulatory purview.

HB 587 does not provide for a licensing or registration system or establish qualifications for entities selling these products in the state, other than a financial responsibility standard. In those circumstances where the MIA has some regulatory authority over non-insurance products, like motor vehicle repair contracts, the entities marketing and selling such products in the state are required to register with the MIA so that the MIA is aware of which entities are operating in the state, validate that they meet certain qualifications, assure that the financial responsibility requirements have been met, and verify that the contract forms used meet the statutory requirements. Our research indicates that there are as many as 100 providers of MVFPP who would be subject to our oversight on an ongoing basis. As new providers appear in the state, the absence of a registration requirement will mean a new provider may escape our regulatory radar. Moreover, any complaint investigations the MIA undertakes may be impeded by the lack of a registration requirement. In other contexts, the requirement to register with the MIA ensures that the entity in question will provide up-to-date contact information and respond promptly to the MIA's investigation.

Due to the fact that such entities are not subject to assessment that funds the Insurance Regulatory Fund, the cost of regulating non-insurers is traditionally funded through the registration fees charged. Even without a registration component, regulation of MVFPP will require the MIA to develop a regulatory oversight framework, consumer education guides, and internal expertise that will likely involve the hiring of at least one new staff person.

Most significantly, to assure that the regulation of MVFPP proposed is the right regulation, it is appropriate to conduct an analysis of the regulatory regimes currently in use in other states, as well as any standard imposed on those financial institutions that would not be covered by HB 587.

In reviewing the current Bill language, the MIA notes that there are terms that are unclear and would need to be clarified to assure that the MIA is able to enforce standards. The MIA also notes that HB 587 includes an effective date of October 1, 2022. **In the event this bill advances, the MIA respectfully requests that the effective date be delayed until at least October 1, 2023 to allow time for the MIA to put the infrastructure in place to fulfill a completely new regulatory function and to promulgate any necessary regulations.**

Thank you for the opportunity to provide the committee with information. The MIA is available to respond to questions and to assist the committee in determining the best possible outcome for Maryland with respect to HB 587.