

**SB0573\_2022\_GAPA\_FAV.pdf**

Uploaded by: Marta Harting

Position: FAV



**TESTIMONY IN SUPPORT OF HOUSE BILL 587/SENATE BILL 573  
MOTOR VEHICLE FINANCIAL PROTECTION PRODUCT AGREEMENT ACT**

The Guaranteed Asset Protection Alliance (“GAPA”) supports the passage of House Bill 587/Senate Bill 573 (Motor Vehicle Financial Protection Product Agreements Act)

By way of background, GAPA, formed in 2006, is comprised of companies experienced in offering quality motor vehicle financial protection products throughout the country. Our members include insurance companies, lenders, and administrative services companies who, together, bring valuable products to a competitive market in a responsible way. GAPA’s mission is to preserve the viability of its industry and promote fair and equitable legislation and regulation of its members and their products so that its members may continue to offer meaningful options to consumers who choose to purchase these protections.

To this end, GAPA developed a model act that has been the basis for laws in over 24 states. GAPA recently updated its model act (as reflected in HB587/SB573) to include and regulate additional, newer types of motor vehicle financial protection products.

Motor vehicle financial protection products are optional agreements that protect a consumer’s financial interest in the consumer’s current or future motor vehicle. They include debt cancellation agreements, excess wear and use waivers, and vehicle value protection agreements. Debt cancellation agreements (as defined in Commercial Law Article Sections 12-601 and 12-1001) (sometimes referred to as “Gap waivers”) can be offered to a borrower who is financing the purchase of a car. As soon as the borrower drives off the dealer’s lot, their car is diminished in value. Because of this de-valuation, the amount the borrower owes exceeds the amount the vehicle is worth. If the car is totaled or stolen such that it is a total loss, the consumer may owe more than the amount covered by the primary insurance proceeds. The additional amount owed to the lender would come out of the borrower’s pocket in the absence of a debt cancellation agreement. If a debt cancellation agreement was purchased, the creditor would waive some or all of the amount owed in excess of the primary insurance proceeds.

Excess wear and use waivers can be purchased by the lessee of a leased vehicle so that all or part of any amounts that become due under the lease for excessive wear and use of the leased vehicle are canceled or waived.

Vehicle value protection agreements provide a reduction of some or all of the contract holders finance agreement deficiency balance or towards the purchase or lease of a replacement vehicle or vehicle services following a loss, theft, damage, obsolescence, diminished value, depreciation or other adverse event. They include trade-in credit agreements, diminished value agreements, and depreciation benefit agreements, among other types of similar agreements.

The bill places financial requirements on companies offering these motor vehicle financial protection products and require certain written disclosures to be provided to consumers purchasing these products.

The bill also contains enforcement provisions and potential fines for violations, under the regulation of the Maryland Insurance Administration.

Passage of HB587/SB573 will put in place appropriate consumer protections including:

- A 30 day free look period during which the consumer may return the product without penalty fees or costs.
- A requirement that the product be optional for the borrower and that the terms of the financing and terms of the purchase not be conditioned upon the purchase of the product.
- Cancellation and refund requirements.
- Definitions of key terms.
- Various disclosure requirements to ensure that consumers can make an informed decision about purchasing the product.
- Financial solvency protections as to the providers of these products.

For additional information, contact Marta Harting ([mdharting@venable.com](mailto:mdharting@venable.com)).

**SB0573-573023-01.pdf**

Uploaded by: Katherine Klausmeier

Position: FWA



SB0573/573023/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

08 FEB 22  
15:15:21

BY: Senator Klausmeier  
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 573  
(First Reading File Bill)

On page 4, in lines 16 and 17, strike “THIS ARTICLE” and substitute “THE COMMERCIAL LAW ARTICLE”.

On page 6, strike beginning with “A” in line 1 down through “(3)” in line 5.

On page 7, in line 25, strike “(I)”; and strike in their entirety lines 30 through 32, inclusive.

On page 9, after line 12, insert:

“(6) FOR A VEHICLE VALUE PROTECTION AGREEMENT, THE METHODOLOGY FOR CALCULATING THE REFUND OF THE UNEARNED PURCHASE PRICE, IF ANY, THAT WILL BE DUE IN THE EVENT OF CANCELATION OF THE VEHICLE PROTECTION AGREEMENT;”;

in line 13, strike “(6)” and substitute “(7)”; in line 14, strike “DEBT WAIVER AGREEMENT ON THE” and substitute “REFUND OF THE UNEARNED PURCHASE PRICE, IF ANY, THAT WILL BE DUE IN THE EVENT OF”; in line 15, strike the first “FINANCE AGREEMENT” and substitute “DEBT WAIVER AGREEMENT”; in line 16, strike “(7)” and substitute “(8)”; in line 21, strike “(8)” and substitute “(9)”; in line 27, strike “(1) EXCEPT AS PROVIDED IN” and substitute “SUBJECT TO”; after line 29, insert:

“(B) (1) A RETAIL SELLER SHALL CONTINUOUSLY INSURE THE RETAIL SELLER’S OBLIGATIONS UNDER A DEBT WAIVER AGREEMENT UNDER A

(Over)

CONTRACTUAL LIABILITY OR OTHER INSURANCE POLICY ISSUED BY AN INSURER PROVIDED THAT A LESSOR IS NOT REQUIRED TO INSURE THE LESSOR'S OBLIGATION UNDER A DEBT WAIVER AGREEMENT WITH RESPECT TO A LEASE.

(2) AN INSURANCE POLICY PROCURED BY AN ADMINISTRATOR OF THE RETAIL SELLER'S DEBT WAIVER AGREEMENT SATISFIES THE RETAIL SELLER'S OBLIGATION UNDER THIS SUBSECTION IF IT INSURES THE RETAIL SELLER'S OBLIGATIONS UNDER THE DEBT WAIVER AGREEMENT.”;

in line 30, strike “(2)” and substitute “(C)”; in the same line, strike “THE” and substitute “AN”; and in the same line, after “POLICY” insert “THAT PROVIDES COVERAGE FOR A CREDITOR'S OBLIGATIONS UNDER A DEBT WAIVER AGREEMENT”.

On page 10, in lines 1, 4, 7, 10, and 13, strike “(I)”, “(II)”, “(III)”, “(IV)”, and “(V)” respectively, and substitute “(1)”, “(2)”, “(3)”, “(4)”, and “(5)”, respectively; in line 7, strike “(II)” and substitute “(2)”; and strike in their entirety lines 19 through 27, inclusive.

**testimony2022sb573ltr.pdf**

Uploaded by: Franz Schneiderman

Position: UNF



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**Testimony to the Senate Finance Committee**  
**SB 573 – Motor Vehicle Financial Protection Product Agreements Act**  
**Position: Unfavorable**

The Honorable Delores G. Kelley  
Senate Finance Committee  
3 East, Miller Senate Building  
Annapolis, MD 21401  
cc: Members, Senate Finance Committee

Feb. 16, 2022

**Honorable Chair Kelley and Members of the Committee:**

I'm a consumer advocate and Executive Director of Consumer Auto, a non-profit group that works for safety, transparency, and fair treatment for Maryland drivers and car buyers.

Consumer Auto **opposes SB 573** because we are concerned that it could open the door for some in the auto industry to market vaguely-defined (or as yet undefined) and weakly-regulated financial products that may be toxic for car buyers. Packing car loans with such financial products can push up the costs of cars significantly while providing little or no actual value to consumers.

The bill, oddly, would amend the Insurance article of the Maryland Code to allow for the marketing of ill-defined financial products its language declares are “not insurance.” But just what these products may turn out to be is less clear. The bill tells us [(33-101(Q))] that the “Motor Vehicle Financial Protection Product Agreement” it authorizes “includes” 1: “a debt waiver agreement” and 2: “A vehicle value protection agreement.” But it does not in any obvious way limit what else may, at some point, be authorized as allowable “financial protection product agreements.”

The bill language does, however, make clear that [(33-102(C)(1)(I))] “the amount charged or financed” for such an agreement will be deemed “an authorized charge,” “notwithstanding any other provision of law.” That strongly suggests that any charge for these questionable products will be considered “authorized,” even if it violates other consumer protection regulations.

More troubling still is that that the characterization of these products seems pitched to circumvent regulatory protections for consumers. The bill language says that a Financial Protection Product Agreement is not only “not insurance” [(33-102(E))] but also “not a finance charge or interest.” [(33-102(C)(1)(II)].

Stipulating that these ill-defined products are “not insurance” would exempt them from scrutiny or regulation by the Maryland Insurance Administration. Defining them not to be financing or interest charges could enable creditors to evade Maryland’s usury and lending laws and would limit the ability of Maryland’s Commissioner of Financial Regulation to regulate them. As a result, car buyers may end up with little regulatory protection against added costs and other abuses imposed by predatory financial products.

**We oppose SB 573 and ask you to give it an Unfavorable Report.**

Sincerely,  
Franz Schneiderman  
Consumer Auto



**SB 573 2022 Testimony (2).pdf**

Uploaded by: Marceline White

Position: UNF

**Testimony to the Senate Finance Committee**  
**SB 573: Motor Vehicle Financial Protection Agreements Act**  
**Position: Unfavorable**

February 17, 2022

The Honorable Delores Kelley, Chair  
Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401  
Cc: Members, Senate Finance Committee

Honorable Chair Kelley and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are in strong opposition to SB 573 and ask for an unfavorable report.

As drafted, this legislation would amend the Maryland Code's Insurance article to authorize the sale of new products that the bill declares are **NOT** insurance [see proposed 33-102(E)]. New products should be subject to more scrutiny since this legislation would make troubling changes to undermine current consumer protections in Maryland law. This is a clear attempt to circumvent Maryland's long standing usury laws that protect consumers, allowing creditors to mislead consumers about the true cost of credit. The Maryland General Assembly, time and time again, has passed legislation to cap interest rates for consumers. If passed, HB 587 would undo and undermine the express will of this committee and the General Assembly in capping consumer loans at 36 percent.

Specifically, SB 573 would authorize the creation and sale of three new products: "Motor Vehicle Financial Protection Product Agreements," "Vehicle Value Protection Agreements," and for leases, "Excess Wear and Use Agreements." To our knowledge, no consumers have been clamoring for these types of agreements. Car dealers are the only ones who will benefit should SB 573 pass.

In fact, the legislation opens a Pandora's box which would enable car dealers to add a series of unnecessary products that under the SB 573 definition, cannot be considered insurance [33-102(E)] and cannot be regulated as a finance charge or interest [33-102(C)(1)(I) and (II)].

If passed, SB 573 creates a deeply troubling precedent: it would allow the General Assembly to pre-clear products not yet invented by car dealers. But we all know who will pay the cost: Marylanders who already can scarcely afford today's high monthly car payments.

SB 573 also allows those who create and sell "Motor Vehicle Financial Protection Product Agreements," to make many of them non-cancellable after 30 days [33-103(B)(1)]. Even if they can be canceled,

consumers would have to pay a needlessly hefty \$75 charge. And in some cases, providers of these agreements can cancel them after consumers have already purchased a car in reliance on that agreement, leaving consumers without recourse and unable to undo their car purchase [33-103(G)].

This bill would harm low-income and working families across Maryland. In 2021, auto loans increased by \$8 billion, to \$1.38 trillion nationally<sup>1</sup> and auto loans were the third largest reason for consumer debt. Research from the Center for Responsible Lending and the National Consumer Law Center have found that Black and Brown consumers are sold more unnecessary auto financial products than white car buyers.

This bill would undermine critical consumer protections in Maryland, cost low-income, predominantly borrowers of color expensive fees for unnecessary products, and charge them expensive fees for canceling the products. All told, this is deeply troubling and unnecessary legislation.

For all of these reasons, we oppose SB 573 and urge an unfavorable report.

Best,

Marceline White  
Executive Director

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<sup>1</sup> <https://www.cnn.com/2021/05/12/household-debt-climbs-to-14point64-trillion.html>

**SB 573 Mark Steinbach oppose.pdf**

Uploaded by: Mark Steinbach

Position: UNF



Mark H. Steinbach  
msteinbach@GWCfirm.com

February 14, 2022

The Honorable Delores G. Kelley  
Senate Finance Committee  
11 Bladen Street  
Annapolis, MD 21401

**re: SB 573**  
Motor Vehicle Financial Protection Product Agreements Act  
**OPPOSE**

Dear Chair Kelley and Members of the Committee:

I write in opposition to SB 573. As an attorney who has practiced law in Maryland for more than 40 years, representing literally hundreds of individual Marylanders who were deceived and cheated by car dealers, I know well the Pandora's Box of problems this bill would open.

Under SB 573, the General Assembly would *preauthorize* the creation of virtually unlimited new motor vehicle financial protection product agreements – including products that don't yet exist. Products and agreements which no-one has seen. Products and agreements for which any charge would be preauthorized, no matter how extreme. And taken as a whole, provisions in this bill will preclude or handcuff oversight by any government agency concerned with consumer protection.

These troubling concerns flow from several key provisions in SB 573:

Proposed section 33-101(Q) of this bill states: “ ‘Motor Vehicle Financial Protection Product Agreement’ **includes:** (1) a debt waiver agreement; and (2) a Vehicle Value Protection Agreement.” (emphasis added). That's the whole definition. Note this definition *does not exclude* any product agreement that bold and creative minds can argue constitutes a “motor vehicle financial protection product agreement.” It is vague and broad: there are no standards, guardrails or limitations whatsoever. The bill simply preauthorizes the creation and sale of products in Maryland, some of which do not yet exist.

If this bill is enacted, under proposed 33-102(C)(1)(I), any costs are deemed “**authorized.**” This means that not only is any product that could be deemed a financial protection product agreement authorized but also that *any* charge for a financial protection product agreement has been authorized.

But that's not all. In a third provision, HB 587 would establish that any charge for one of these still undisclosed agreements **"is not a finance charge or interest."** 33-102(C)(1)(II). Without trying to explain the intricacies of the federal Truth in Lending Act or Maryland statutes protecting consumers, that provision alone will empower unscrupulous creditors to circumvent Maryland's long-standing laws against usury in a number of instances. It also would preclude or substantially hamper regulation by the Maryland Commissioner of Financial Regulation.

And for the cherry on top of these giveaways, SB 573 declares that **any** product which can be squeezed within the bill's wide open definition of "Motor Vehicle Financial Protection Product Agreements" is **not insurance** (see 33-102(E)). By so stating, this bill would have the General Assembly prejudge a whole category of undisclosed, yet-to-be-invented products and spare them from regulation or scrutiny by the Maryland Insurance Administration, including its Consumer Education and Advocacy Unit.

When these four provisions are combined with the remaining provisions of the bill, they take away the tools responsible government officials need to strike a reasonable balance between the good that may be found in new financial protection products and the dangerous opportunities for abuse these products clearly involve.

Instead of SB 573's blind endorsement of vaguely defined and currently undisclosed products, sound public policy strongly suggests what should happen when a new financial protection product agreement is proposed: government officials with relevant expertise (experts from the Maryland Insurance Administration, Maryland Attorney General's Consumer Protection division and the MVA), working with car dealers, industry groups and consumer advocates, should have an opportunity to analyze and debate the benefits, costs and potential for misuse of these products, in the public interest. Such a process, some form of which has worked for many years, has served Marylanders well. SB 573 would short-circuit informed, fair and balanced decision making and render essential regulation highly unlikely.

### **THE PRODUCTS PROPOSED IN SB 573 CAN AND PREDICTABLY WILL BE ABUSED BY PREDATORY CAR DEALER PERSONNEL**

It's not my intent to condemn all car dealers, though they suffer a reputation that may even be below that of the practitioners in my profession. But my busy career is testament to the fact that virtually every week, dozens of Marylanders are deceived or forced by car dealer personnel into purchasing products – especially the kind of financial product agreements SB 573 would blindly preauthorize – that they don't need, often don't even know they've purchased and which have zero value or are close to worthless.

This happens because of pressure from dealer management to increase revenues and commission based incentives that sadly and repeatedly, in too many cases, overcome this country's traditional values of honesty, integrity and looking out for our fellow man. Sometimes it happens because dealers are pressured by their financing sources.<sup>1</sup>

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<sup>1</sup> For example, the Maryland Attorney General's office recently handled a case against Santander, a huge company, which unlawfully pressured dealers to sell Guaranteed Asset Product (GAP) agreements and extended warranties. Santander is now prohibited from doing so under a settlement agreement it reluctantly reached with the A.G. But

The wide array of deceptive techniques for controlling a consumer's auto purchase or lease are legendary. They include falsely telling consumers they must purchase (abusive) products because the lender requires it; deceptively hiding the price of (abusive) financial products in the car's purchase price; the old "four square" (a way of manipulating figures during negotiations); the "five finger close" (where the dealer's closer covers up figures or terms on a document the consumer would balk at if seen); "payment packing" (where the dealer quotes a monthly payment large enough to hide the cost of abusive products, without the consumer's knowledge); fraudulently inflating a consumer's income to trick lenders into approving a deal the customer can't afford; "power booking" (misrepresenting equipment on the car being sold and/or traded-in to falsify value); "bundling" (falsely saying that 2 or more different products must be purchased together); overcharging women, minorities, persons whose native tongue is not English or first-time car buyers because they don't expect pushback; forging customer signatures; and many others.

Many Marylanders have incurred large medical expenses, or experienced other setbacks, that significantly damage their credit scores. These consumers often struggle to be approved for a car loan. When a person has been turned down repeatedly, that person becomes very vulnerable: when they finally find a car dealer willing to finance their purchase, they understandably are grateful and can be easily led to sign documents where directed. I have represented many consumers who never knew they purchased or were charged for products similar to those SB 573 would greenlight. Some products like those this bill would authorize are so worthless and have so few claims that in a surprising number of sales, dealers will just pocket the money, never bothering to purchase what it induced the customer to pay for because it is so unlikely the customer would ever need to take advantage of or make a claim under the product. The Maryland A.G.'s office recently had to address that very same scenario, a kind of fraud which unfortunately has victimized a number of my own clients. Sadly, the kind of products SB 573 would authorize are the very kind of products most susceptible to abuse because vulnerable consumers are most likely to pay or be tricked or forced into paying for financial protection products that are difficult to understand.

In my judgment, based on the experiences of hundreds of my clients, the General Assembly would be recklessly endangering Maryland consumers were it to pass SB 573.

I urge this Committee to give an unfavorable report on SB 573.

I have been authorized by attorney Jane Santoni of Santoni, Vocci & Ortega, LLC in Lutherville-Timonium, to state that she joins in this opposition to SB 573.

Sincerely,

/ s /

Mark H. Steinbach  
Of Counsel

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given its limited resources, the A.G.'s office can only do so much and there are innumerable large and small dealers all across the state, with personnel too many of whom yield to temptation to cheat and defraud.

**OAG SB 573 - Oppose.pdf**

Uploaded by: Philip Ziperman

Position: UNF



**BRIAN E. FROSH**  
*Attorney General*



**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.  
410-576-7036

WRITER'S DIRECT DIAL NO.  
410-576-6417

February 16, 2022

**TO:** The Honorable Delores Kelley, Chair  
Senate Finance Committee

**FROM:** Philip D. Ziperman  
Deputy Chief, Consumer Protection Division

**RE:** Senate Bill 573 – Motor Vehicle Financial Protection Product Agreements Act  
(OPPOSE)

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The Office of the Attorney General (“OAG”) opposes Senate Bill 573, sponsored by Senator Klausmeier, which would authorize the sale of “Motor Vehicle Financial Protection Products” to Maryland consumers in connection with the sale of an automobile that are of questionable value. Further, SB 573 would provide that products that resemble insurance products are not, in fact, insurance products that would be regulated by the Maryland Insurance Administration (“MIA”). The OAG is concerned about the prospect of new add-on products that are of dubious value being sold to Maryland automobile consumers. If the sale of the products were to be allowed to be sold in Maryland they should only be sold by an insurer licensed by MIA to ensure that both the cost of the product and the sales process are subject to oversight by an agency with the expertise to ensure that the products are not being misrepresented to consumers and provide consumers with value.

The OAG’s Consumer Protection Division regularly receives complaints about add-on products sold in connection with the sale of automobiles, including that the add-on product was added to the contract without the consumer’s knowledge; the cost or nature of the product was misrepresented; or that the consumer was misled into believing that they were required to buy the product. The Division also gets complaints from consumers that similar products, such as GAP insurance, which is sold by MIA-licensed auto insurers and is intended to cover the difference between the value of the consumer’s vehicle and the amount remaining on the consumer’s car loan, or Debt Cancellation Agreements, which are offered by lenders licensed by Office of the Commissioner of Financial Regulation and are intended to forgive the balance of the consumer’s loan in the event the car is totaled or other triggering events occur, do not pay the full amount they are intended to cover. The OAG is concerned that the products that Senate Bill 573 would authorize will generate similar complaints but will not have the oversight of a regulator to address complaints.

Maryland's Credit Grantor Closed End Credit law ("CLEC"), Commercial Law Article, §§ 12-1001, *et. seq.*, defines a Debt Cancellation Agreement as "an agreement between a credit grantor and a borrower which provides for cancellation of the remaining loan balance in the event of theft or total destruction of the collateral for the loan minus the proceeds of any insurance maintained on the collateral for the loan or, if the borrower does not have insurance, the actual cash value of the collateral at the time of loss, determined as provided in the agreement." CLEC § 12-1001(h). Section 12-1005(c) provides that a loan made pursuant to CLEC may include "[t]he cost to the borrower of an optional debt cancellation agreement, provided that the cost of the debt cancellation agreement is separately itemized in the financing agreement." However, Senate Bill 573 only requires that the amount charged or financed for a "Debt Waiver Agreement," which includes a Debt Cancellation Agreement as well as a new product called an "Excess Wear and Use Agreement" applicable to automobile leases, be "disclosed" in the financing agreement. The same applies to the undefined "separately stated consideration" for a Debt Waiver Agreement. The Division is concerned that requiring less disclosure than what is required by CLEC will add to the confusion consumers already experience when these types of add-on products are sold.

Similarly, the Retail Installment Sales Act ("RISA"), Commercial Law Article §§ 12-601, *et. seq.*, provides that "[a] service or other charge *not specifically provided for in this section* may not be included in a retail installment sale of a motor vehicle." RISA § 12-609(b)(1) (Emphasis added). That section allows the seller of a Retail Installment Sales Contract to "contract for, charge for, receive, and finance the cost to the buyer of an optional debt cancellation agreement sold in connection with a motor vehicle, *provided that the cost of the debt cancellation agreement is separately itemized in the financing agreement.*" RISA § 12-609(b)(4) (Emphasis added). The new financial products that would be authorized by Senate Bill 573 are not specifically provided for in RISA and could not be sold in connection with a Retail Installment Sales Contract.

If the Committee is inclined to allow these products to be sold in Maryland, the OAG strongly believes that they should be subject to licensing and regulation by the MIA, which would be able to review whether the products are being priced reasonably and are not just creating profit for the sellers without providing meaningful value for consumers. However, Senate Bill 573 provides the MIA with enforcement authority but inexplicably provides that the products "are not insurance." Licensing would provide MIA with the tools necessary to make sure that the products authorized by the bill are not being sold in an abusive or deceptive manner. If new automobile add-on products are going to be sold, protections at least as strong if not stronger than those provided in connection with GAP insurance contracts and Debt Cancellation Agreements should also be considered given the volume of complaints the Division receives from consumers concerning these products.

Accordingly, the Office of the Attorney General respectfully requests that the Finance Committee give Senate Bill 573 an unfavorable report. However, the Office has had and is continuing to have discussions with the bill's Proponents and we appreciate their willingness to consider our concerns.

cc: The Honorable Katherine A. Klausmeier  
Members, Senate Finance Committee

# **SB573 Comment Letter-MFSA.pdf**

Uploaded by: Chris DiPietro

Position: INFO



Mid-Atlantic  
Financial Services  
Association, Inc.

*Serving Maryland & Delaware*

February 16, 2022

The Honorable Delores G. Kelley, Chair  
Senate Finance Committee  
3 East  
Miller Senate Office Building  
Annapolis, MD 21401

**RE: SB573 Motor Vehicle Financial Protection Product Agreement Act – Letter of Information**

Dear Chair Kelley and the Members of the Senate Finance Committee:

On behalf of the members of the Mid-Atlantic Financial Services Association, we offer following commentary on SB573. The MFAA is the primary trade association representing non-bank lenders and their interests. For the most part, we think this is a reasonable proposal. We have three suggestions to improve it.

First, § 33-102 requires itemization of GAP / debt waiver agreements. We request an exception to this itemization requirement if a waiver is automatically included as a feature of the financing agreement. (i.e., when it is not a product that is actually sold by the dealer to amend the finance contract). Many captive auto finance companies include GAP waivers automatically in automobile leases, so no GAP can be sold on a lease. The current section 33-102 would seem to require even those waivers to be itemized, which doesn't make sense to us, as this product is provided at no additional charge to the customer.

Second, it is unclear from the language in § 33-103(B) & (D) if it gives the consumer the right to request cancellation to any of the creditor, provider, or GAP administrator, or if it allows the contract to designate one or more of those parties to whom the consumer must send the cancellation request. We prefer the contract be permitted to designate to whom the consumer must send the cancellation request, because it allows for more consistency and better customer service if one method of cancellation is chosen and clearly set forth in the contract.

Finally, § 33-103(D) should clearly state that refund obligations are not triggered until the request is made for a refund. This would prevent confusion as to what triggers the obligation.

We thank you sincerely for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris DiPietro", written over a light blue horizontal line.

Chris DiPietro  
Executive Director

CC: Danielle Fagre – SVP, American Financial Services Association  
D. Robert Enten – Council, Maryland Bankers Association



**SB 573 2022 MIA Letter of Information Final.pdf**

Uploaded by: Kathleen Birrane

Position: INFO

LARRY HOGAN  
Governor

BOYD K. RUTHERFORD  
Lt. Governor



**Maryland**

**INSURANCE ADMINISTRATION**

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KATHLEEN A. BIRrane  
Commissioner

GREGORY M. DERWART  
Deputy Commissioner

**TESTIMONY OF  
THE  
MARYLAND INSURANCE ADMINISTRATION  
BEFORE THE  
SENATE FINANCE COMMITTEE**

**FEBRUARY 16, 2022**

**SENATE BILL 573 – MOTOR VEHICLE FINANCIAL PROTECTIONS PRODUCT AGREEMENTS ACT**

**POSITION: LETTER OF INFORMATION**

Thank you for the opportunity to provide written comments regarding SB 573 (cross-filed with HB 587). SB 573 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.

SB 573 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. SB 573 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.

SB 573 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 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 SB 573.

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 SB 573 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 SB 573.