

SB 338 B STAFF MEASURE SUMMARY

Carrier: Rep. Post

House Committee On Judiciary

Action Date: 05/08/17

Action: Do pass with amendments to the A-Eng bill. (Printed B-Eng.)

Vote: 11-0-0-0

Yeas: 11 - Barker, Gorsek, Greenlick, Lininger, Olson, Post, Sanchez, Sprenger, Stark, Vial, Williamson

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Josh Nasbe, Counsel

WHAT THE MEASURE DOES:

Exempts addendum to finance agreement containing guaranteed asset protection waiver from statutory regulation, if addendum is sold or assigned to entity regulated under Oregon Consumer Finance Act. Excludes addendum from regulation under Insurance Code.

ISSUES DISCUSSED:

- Loss of value of new motor vehicles
- Existing exemption for state and federal banks and credit unions

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In 2015, the Legislative Assembly adopted temporary provisions regulating the sale of guaranteed asset protection (GAP) waivers. Chapter 523, Oregon Laws 2015. A GAP waiver is an agreement between a creditor and a purchaser or lessor of a motor vehicle in which the creditor agrees to waive the difference between the amount owed on the vehicle and the amount covered by insurance, in the event the vehicle is totaled or stolen and not recovered.

The 2015 law exempts GAP waivers from regulation under the Insurance Code and establishes specific requirements applicable to GAP waivers sold to consumers. The law requires mandatory disclosures to the consumer, prescribes the applicable payout methodology, creates an evaluation period, requires retail sellers to purchase insurance and creates a fiduciary relationship with respect to funds held for the benefit of another person. A violation of the law is punishable as an unlawful trade practice and the entire 2015 law is scheduled to sunset on January 2, 2020. State banks and credit unions, insurance policies subject to the Insurance Code, and certain agreements that comply with federal law are exempt from the 2015 law.

Senate Bill 338-B exempts GAP waivers from the 2015 law, if the waiver is sold or assigned to an entity regulated under the Oregon Consumer Finance Act.