

2 **SSB 5714 - H COMM AMD ADOPTED 3-3-94**

3 By Committee on Financial Institutions & Insurance

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout sections 1
9 through 5 and 7 of this act.

10 (1) "Borrower" means a person who receives a loan or enters into a
11 retail installment contract under chapter 63.14 RCW to purchase a motor
12 vehicle or vessel in which the secured party holds an interest.

13 (2) "Motor vehicle" means a motor vehicle in this state subject to
14 registration under chapter 46.16 RCW, except motor vehicles governed by
15 RCW 46.16.020 or registered with the Washington utilities and
16 transportation commission as common or contract carriers.

17 (3) "Secured party" means a person, corporation, association,
18 partnership, or venture that possesses a bona fide security interest in
19 a motor vehicle or vessel.

20 (4) "Vendor single-interest" or "collateral protection coverage"
21 means insurance coverage insuring primarily or solely the interest of
22 a secured party but which may include the interest of the borrower in
23 a motor vehicle or vessel serving as collateral and obtained by the
24 secured party or its agent after the borrower has failed to obtain or
25 maintain insurance coverage required by the financing agreement for the
26 motor vehicle or vessel. Vendor single-interest or collateral
27 protection coverage does not include insurance coverage purchased by a
28 secured party for which the borrower is not charged.

29 (5) "Vessel" means a vessel as defined in RCW 88.02.010 and
30 includes personal watercraft as defined in RCW 88.12.010.

31 NEW SECTION. **Sec. 2.** In a contract or loan agreement, or on a
32 separate document accompanying the contract or loan agreement and
33 signed by the borrower, that provides financing for a motor vehicle or
34 vessel and authorizes a secured party to purchase vendor single

1 interest or collateral protection coverage, the following or
2 substantially similar warning must be set forth in ten-point print:

3 WARNING

4 UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE
5 AS REQUIRED BY OUR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT
6 YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT
7 NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL
8 BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM
9 YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL
10 THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED
11 PROPER COVERAGE ELSEWHERE.

12 YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY
13 US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR LOAN
14 BALANCE. IF THE COST IS ADDED TO THE LOAN BALANCE, THE
15 INTEREST RATE ON THE UNDERLYING LOAN WILL APPLY TO THIS ADDED
16 AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR
17 PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF
18 OF COVERAGE.

19 THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE
20 THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY
21 WASHINGTON'S MANDATORY LIABILITY INSURANCE LAWS.

22 NEW SECTION. **Sec. 3.** (1) A secured party shall not impose
23 charges, that may include but are not limited to interest, finance, and
24 premium charges, on a borrower for vendor single interest or collateral
25 protection coverage for the motor vehicle or vessel as provided in
26 subsection (2) of this section until the following or a substantially
27 similar warning printed in ten-point type is sent to the borrower:

28 FINAL NOTICE AND WARNING

29 UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE
30 AS REQUIRED BY OUR LOAN AGREEMENT WITHIN FIVE DAYS AFTER THE
31 POSTMARK ON THIS LETTER, WE WILL PURCHASE INSURANCE AT YOUR
32 EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED

1 NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES
2 DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU
3 MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS
4 COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPER
5 COVERAGE ELSEWHERE OR HAVE PAID OFF THE LOAN ON THE COLLATERAL
6 IN ITS ENTIRETY.

7 YOU ARE RESPONSIBLE FOR THE COST OF THE INSURANCE PURCHASED BY
8 US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR LOAN
9 BALANCE. IF THE COST IS ADDED TO THE LOAN BALANCE, THE
10 INTEREST RATE ON THE UNDERLYING LOAN WILL APPLY TO THIS ADDED
11 AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR
12 COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF
13 COVERAGE.

14 THE COVERAGE WE PURCHASE WILL COST YOU A TOTAL OF APPROXIMATELY
15 \$ _____ (PLUS INTEREST) AND MAY BE CONSIDERABLY MORE EXPENSIVE
16 THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN.

17 The final notice and warning shall identify whether the coverage to be
18 purchased is vendor single interest or collateral protection coverage
19 and disclose the extent of the borrower's coverage, if any, including
20 a statement of whether the coverage satisfies Washington's mandatory
21 liability insurance laws.

22 (2) If reasonable efforts to provide the borrower with the notice
23 required under subsection (1) of this section fail to produce evidence
24 of the required insurance, the secured party may proceed to impose
25 charges for vendor single interest or collateral protection coverage no
26 sooner than eight days after giving notice as required under this
27 chapter. Reasonable efforts to provide notice under this section
28 means:

29 (a) Within thirty days before the secured party is required to send
30 the final notice and warning in compliance with subsection (1) of this
31 section, the secured party shall mail a notice by first class mail to
32 the borrower's last known address as contained in the secured party's
33 records. The notice shall state that the secured party intends to
34 charge the borrower for vendor single interest or collateral protection
35 coverage on the collateral if the borrower fails to provide evidence of
36 proper insurance to the lender; and

1 (b) The secured party shall send the final notice and warning
2 notice in compliance with subsection (1) of this section by certified
3 mail to the borrower's last known address as contained in the secured
4 party's records at least eight days before the insurance is charged to
5 the borrower by the insurer.

6 (3) The secured party is responsible for complying with subsection
7 (2)(a) and (b) of this section. However, a secured party may seek the
8 services of other entities to fulfill the requirements of subsection
9 (2)(a) and (b) of this section.

10 (4) Nothing contained in this chapter, or a secured party's
11 compliance with or failure to comply with this chapter, shall be
12 construed to require the secured party to purchase vendor single
13 interest or collateral protection coverage, and the secured party shall
14 not be liable to the borrower or any third party as a result of its
15 failure to purchase vendor single interest or collateral protection
16 coverage.

17 (5) Substantial compliance by a secured party with sections 1
18 through 5 of this act constitutes a complete defense to any claim
19 arising under the laws of this state challenging the secured party's
20 placement of vendor single interest or collateral protection coverage.

21 (6) The effective date of vendor single interest or collateral
22 protection coverage placed under this chapter shall be either the date
23 that the borrower's prior coverage lapsed or the date that the borrower
24 failed to provide proof of coverage on the vehicle or vessel as
25 required under the contract or loan agreement. Premiums for vendor
26 single interest or collateral protection coverage placed under this
27 chapter shall be calculated on a basis that does not exceed the
28 outstanding credit balance as of the effective date of the coverage
29 even though the coverage may limit liability to the outstanding
30 balance, actual cash value, or cost of repair.

31 (7) If the secured party has purchased the contract or loan
32 agreement relating to the motor vehicle or vessel from the seller of
33 the motor vehicle or vessel under an agreement that the seller must
34 repurchase the contract or loan agreement in the event of a default by
35 the borrower, the secured party shall send a copy of the notice
36 provided under subsection (2)(a) of this section by first class mail to
37 the seller at the seller's last known address on file with the secured
38 party when such notice is sent to the borrower under subsection (2)(a)
39 of this section.

1 NEW SECTION. **Sec. 4.** (1) The secured party shall cancel vendor
2 single interest or collateral protection coverage charged to the
3 borrower effective the date of receipt of proper evidence from the
4 borrower that the borrower has obtained insurance to protect the
5 secured party's interest. Proper evidence includes an insurance binder
6 that is no older than ninety days from the date of issuance and that
7 contains physical damage coverage as provided in the borrower's loan
8 agreement with respect to the motor vehicle or vessel.

9 (2) If the underlying loan or extension of credit for the
10 underlying loan is satisfied, the secured party may not require the
11 borrower to maintain vendor single interest or collateral protection
12 coverage that has been purchased.

13 (3) The interest rate for financing the cost of vendor single
14 interest or collateral protection coverage may not exceed the interest
15 rate applied to the underlying loan obligation.

16 NEW SECTION. **Sec. 5.** If vendor single interest or collateral
17 protection coverage is canceled or discontinued under section 4 (1) or
18 (2) of this act, the amount of unearned premium must be refunded to the
19 borrower. At the option of the secured party, this refund may take the
20 form of a credit against the borrower's obligation to the secured
21 party. If the refund is taken as a credit against the borrower's
22 obligation to the secured party, the secured party shall provide the
23 borrower with an itemized statement that indicates the amount of the
24 credit and where the credit has been applied.

25 NEW SECTION. **Sec. 6.** Sections 1 through 5 and 7 of this act are
26 added to chapter 48.22 RCW.

27 NEW SECTION. **Sec. 7.** The failure of a secured party prior to
28 January 1, 1995, to provide notice as contemplated in this chapter, or
29 otherwise to administer a vendor single interest or collateral
30 protection coverage program in a manner similar to that required under
31 this chapter, shall not be admissible in any court or arbitration
32 proceeding or otherwise used to prove that a secured party's actions
33 with respect to vendor single interest or collateral protection
34 coverage or similar coverage were unlawful or otherwise improper. A
35 secured party shall not be liable to the borrower or any other party
36 for placing vendor single interest or collateral protection coverage in

1 accordance with the terms of an otherwise legal loan or other written
2 agreement with the borrower entered prior to January 1, 1995. The
3 provisions of this section shall be applicable with respect to actions
4 pending or commenced on or after the effective date of this section.

5 NEW SECTION. **Sec. 8.** Sections 1 through 5 of this act take effect
6 January 1, 1995."

--- END ---