

LEGISLATIVE UPDATES / GAP

October-November 2022

The information provided in this legislative update summarizes legislation recently passed, introduced and currently pending. Each bill has been summarized to highlight the pertinent parts that may have an effect on certain F&I products.

This legislative update is created for internal purposes, based on information provided by service contract industry trade association publications and industry discussions conducted by such trade associations. As a courtesy, this legislative update is made available to certain clients to share with their regulatory advisors. Clients should use this information only as a guide for topics to be discussed in more detail with their legal and regulatory advisors.

CALIFORNIA

Bill No.: Draft Rule PRO 03-21

Subject: Complaint and Inquiry Handling and Reporting
Date Filed: 5/20/2022
Effective Date: Will be effective upon adoption

Summary:

The California Department of Consumer Financial Protection (Department) has published draft rules on complaint and inquiry handling and reporting for certain providers of consumer financial products or services.

These rules are being promulgated pursuant to a legislative mandate passed in the California Financial Protection Law in 2021 under CA AB 1864. The California Consumer Financial Protection Law Section 90005 defines a covered person as persons offering or providing consumer financial products or services or affiliates providing a material service to a person offering or providing such products or services.

The proposed rule establishes highly detailed requirements for covered persons to respond to consumer complaints and inquires and to develop and implement written policies and procedures regarding the:

- initiation of complaints or inquiries;
- acknowledgement of receipt of complaints;
- review and evaluation of complaints or inquiries;
- tracking of complaints or inquiries;
- response to complaints or inquiries;
- maintenance of a written record for each complaint;
- retention of copies of written inquiries and responses;
- administration of the complaint and inquiry process without discrimination; and
- quarterly reporting of complaints and inquiries to the Department;

The proposed rule also establishes requirements for such covered persons to develop and implement written policies and procedures for responding to requests from the Department regarding consumer complaints and inquiries.

DELAWARE

Bill No.: HB 429

Subject: GAP & EWU Waivers
Date Filed: 5/17/2022
Effective Date: **PASSED – Effective 10/14/2022**

Summary:

This legislation is being pursued by GAPA. It would expressly exempt guaranteed asset protection waivers from insurance regulation. The bill also expressly authorizes excess wear and use (“EWU”) waiver as a type of guaranteed asset protection waiver, thus exempting EWU from insurance regulation. Additionally, the bill expressly authorizes a gap product to be offered as a service contact.

MICHIGAN

Bill No.: HB 5429

Subject: GAP Waivers, EWT Waivers, and Vehicle Value Protection Agreements

Date Filed: 10/20/2021

Effective Date: PENDING (If passed, 180 days after enactment)

Summary:

This is part of a package of bills being pursued by GAPA in an effort to create regulatory framework for Vehicle Value Protection Agreements ("VVPA"). In addition, the bill amends the definition of GAP waiver to allow for GAP plus and to expressly authorize Excess Wear & Use Waivers. The bills that are included as part of this package are: House Bills 5430, 5431, ~~5432~~ replaced w/ HB 6260, and 5967 and only take effect if they are ALL enacted.

VVPA is defined in the bill as: "Vehicle value protection agreement" includes a contractual agreement that provides a benefit toward either the reduction of some or all of the contract holder's current finance agreement deficiency balance, or toward the purchase or lease of a replacement motor vehicle or motor vehicle services, on the occurrence of an adverse event to the motor vehicle, including but not limited to loss, theft, damage, obsolescence, diminished value, or depreciation. Vehicle value protection agreement may include an agreement such as, but not limited to, a trade-in-credit agreement, diminished value agreement, depreciation benefit agreement, or other similarly named agreement..."

The associated bills noted above, amend the reference to "guaranteed asset protection waivers" to "vehicle value protection products within the insurance code, retail installment sales act, and motor vehicle sales finance act and have no other impact.