

LEGISLATIVE UPDATES / GAP

August 2023

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.: AB 1143

Subject: GAP – MLA
Date Filed: 02/15/2023
Effective Date: PENDING (TBD)
Summary:

Amends 408.1 of the Military and Veterans Code to add the following:
(d) Subdivisions (b) and (c) shall not apply to a loan to a covered member that complies with subdivisions (a) through (d), and paragraphs (1), (2), (4), (5), (6) and (7) of subdivision (e) of line 19 Section 987 of Title 10 of the United States Code and the federal line 20 regulations implementing those provisions.

CALIFORNIA

Bill No.: AB 1756

Subject: GAP Refunds
Date Filed: 03/02/2023
Effective Date: PENDING (If passed, will be effective 01/01/2024)
Summary:

This bill amends Section 2982.12.(b)(2)(B) to calculate the refund based on the terms of the GAP waiver, rather than the finance agreement, when the term of the finance agreement exceeds the term of the GAP waiver.

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.

MAINE

Bill No.: Proposed Rule ~~2022-P140~~ 2023-P109

Subject: GAP Waivers Administrators
Date Filed: 08/03/2022
Effective Date: PENDING (no effective date specified yet)

Summary:

The Maine Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection has reintroduced a rule to establish a new annual registration and set application and renewal fees for GAP waiver administrators.

MASSACHUSETTS

Bill No.: SB208 / HB 346

Subject: GAP Waivers, EWT Waivers, and Vehicle Value Protection Agreements
Date Filed: 2/16/2023
Effective Date: PENDING (If passed, it will be effective immediately upon passage)

Summary:

This bill is being pursued by GAPA to implement the revised Model Act which includes GAP, EWU, and Motor Vehicle Protection Products. Section 1 of the General Laws is amended by adding Chapter 93M titled "Motor Vehicle Financial Protection Products". Regulation of these products would fall under the Commissioner of the Division of Banks.

MICHIGAN

Bill No.: SB 343 / SB 347

Subject: GAP Waivers, EWT Waivers, and Vehicle Value Protection Agreements
Date Filed: 05/23/2023
Effective Date: PENDING (If passed, would be effective immediately)

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.

NEW YORK

Bill No.: SB 3597

Subject: GAP – Authorization of "service charge"
Date Filed: 02/01/2023
Effective Date: PENDING (If passed, will be effective 30 days after passage)

Summary:

Current laws in NY as it relates to GAP, prohibits a dealer from charging a consumer more than the cost of the GAP insurance, which essentially does not provide for any profit to a dealer when offering a GAP product. As amended, chapter 140 would allow for a "service charge" on the sale of GAP under retail installment contracts. The service charge may not exceed \$750.00. The bill further states that it does not prohibit the creditor or assignee from including the charge for the waiver plus any permitted service charge in its calculation of payments due under a retail installment contract. Service charge is not defined.