

HB23-1181 Updating Guaranteed Asset Protection (GAP)

- Rep. Mauro & Rep. Snyder and Sen. Hinrichsen & Sen. Mullica -

About GAP

Available from automobile dealerships, banks, credit unions and other financial institutions across Colorado and nationwide, Guaranteed Asset Protection (“GAP”) provides a valuable financial safety net for thousands of borrowers in Colorado. GAP cancels or waives all or part of the remaining debt that a borrower owes when their financed vehicle is a total loss or unrecovered theft, and the primary auto insurance benefit is insufficient to pay off the loan. It also includes coverage for the primary carrier deductible.

Consider an illustration of a GAP claim where on the date of loss the outstanding auto loan balance was \$25,000 and the primary insurance carrier valued the vehicle at \$21,000. The borrower has a \$1,000 deductible under their primary auto insurance.

Loan payoff on date of loss	\$25,000
Minus the primary carrier settlement	\$20,000 (\$21,000 minus the \$1,000 deductible)
Loan balance after settlement	\$ 5,000
Minus the GAP Benefit	\$ 5,000
Balance owed by borrower	\$ 0

**Please note: this example is for illustration only and does not include items that may be excluded from the GAP benefits, such as items in control of the borrower (e.g., past due amounts) and amounts owed to the borrower (e.g., refunds on other products).*

With the benefits of GAP, borrowers – who now need a new vehicle – have all or part of their debt eliminated. GAP helps get them quickly into that next financed vehicle with more equity than they would have otherwise had without GAP.

About HB-1181

Colorado’s regulation of GAP has not been changed in over 20 years. Therefore, this legislation has two main objectives:

Objective 1: Codifying Regulation

HB-1181 simply provides statutory certainty for both purchasers and providers of GAP by codifying the requirements of Rule 8 at 4 CCR 902-1:8 (“Rule 8”) which ensures protections to Colorado borrowers including required affirmative elections, disclosures, cancellation processes, permissible claim deductions, and maximum retail pricing.

(over)

Objective 2: Modernization of GAP

Since the regulation of GAP has not materially changed in over two decades, Colorado statute needs updating to reflect modern-day business standards, consumer protections and competitive market offerings. To that end, the GAP industry worked with the Attorney General's office and gained agreement on the following updates to GAP that were embodied in an official Memorandum from the Uniform Consumer Credit Code (UCCC) Administrator:

- Add to the list of permissible deductions in claim settlements to eliminate double indemnity for consumers (e.g., salvage, refundable product fees, unrepaired prior damage)
- Allow for digital correspondence, including consumer affirmation
- Enable alternative means beyond a dedicated form for consumers to cancel GAP
- Clarify that primary carrier deductibles greater than \$500 can be covered by GAP

In anticipation of HB-1181, the UCCC Memorandum will expire upon the end of the 2023 legislative session, therefore passing the bill is critical to both consumers and GAP providers.

In addition to the modernizations above, HB-1181 updates and aligns Colorado GAP statute with almost all other states by extending the following additional benefits and protections to help assure a viable, competitive, regulated market:

- Any limitations in coverage (ie. loan-to-value) must be conspicuously and clearly disclosed to the consumer.
- Provide for a capped cancellation fee to help cover the costs of this labor-intensive process that is critical to consumers.
- Allow for the sale of GAP-Plus, which adds a benefit that provides a credit or waiver of an amount for the borrower's next financed vehicle down payment.
- Update the maximum GAP fee to 5% of the amount financed. Only (4) states even have a GAP fee cap – CO is the exception, not the rule (ie. TX & OR at 5%)

PLEASE SUPPORT HB-1181

The following organizations respectfully ask for your support of this legislation that will modernize Colorado's GAP laws after 20+ years to benefit consumers and help assure a viable GAP market for them into the future:

- Guaranteed Asset Protection Alliance (GAPA)
- Colorado Auto Dealers Association (CADA)
- Powersports Dealer Association of Colorado
- Consumer Credit Industry Association (CCIA)
- American Property Casualty Insurance Association (APCIA)

For further information on HB-1181 contact: Scott Chase 303-324-1121 or