



SENATE BILL 425: Guaranteed Asset Protection and Vehicle Value Protection Agreement Changes.

2021-2022 General Assembly

Committee:		Date:	January 27, 2022
Introduced by:		Prepared by:	Bill Patterson Staff Attorney
Analysis of:	S.L. 2021-172		

OVERVIEW: *S.L. 2021-172 modifies the law governing the regulation of guaranteed asset protection waivers and regulates vehicle value protection agreements. This act became effective January 1, 2022, and applies to agreements entered into on or after that date.*

CURRENT LAW: Article 46 of Chapter 66 of the General Statutes regulates entities offering a guaranteed asset protection (GAP) waiver, which is defined as a contractual agreement in which a creditor agrees, for a separate charge, to cancel or waive all or part of the deficiency in the balance due on a borrower's vehicle in the event of a total physical damage loss or unrecovered theft of the vehicle, after crediting any applicable insurance coverage. Any cost to the borrower for a GAP waiver must be separately stated and is not considered a finance charge or interest.

BILL ANALYSIS:

Section 1 amends Article 46 to regulate GAP agreements with no additional fee charged to the borrower and amends the definition of "GAP agreement" to include the following agreements, whether or not an additional fee is charged to the borrower:

- An agreement by the creditor to waive or give the borrower a credit towards the purchase of a replacement vehicle.
- An agreement by the creditor to cancel or waive all or part of the amount due under a borrower's lease agreement owing to excessive wear and use of a vehicle or excess mileage.

Section 1 also provides that a "vehicle value protection agreement," as defined in Article 48 of Chapter 66 of the General Statutes (enacted by Section 3 of the act), is not deemed to be a GAP waiver for purposes of Article 46.

Section 2 provides that the cost of a GAP waiver is deemed to be an authorized charge that can be financed under the Retail Installment Sales Act, Chapter 25A of the General Statutes and is not deemed to be a part of the finance charge or interest thereunder.

Section 3 amends Chapter 66 of the General Statutes by adding a new Article 48 regulating entities offering a "vehicle value protection agreement," defined as a contractual agreement that provides one of the following benefits to the contract holder upon the occurrence of an "adverse event:"

- A reduction of the contract holder's current finance agreement deficiency balance.
- A credit toward the purchase or lease of a replacement vehicle or purchase of motor vehicle services.

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For this purpose, an "adverse event" includes, without limitation, a less than total physical damage loss, or diminished value or depreciation of the vehicle subject to the agreement. The term "vehicle value protection agreement" as used in new Article 48 does not include a GAP waiver as defined in Article 46.

New Article 48 includes provisions for:

- Disclosures to the borrower.
- Minimum financial solvency requirements for insurers issuing reimbursement policies.
- A minimum 30-day look back period during which the purchaser may cancel the agreement and receive a full refund so long as no benefits have been provided.
- Cancellation of the vehicle value protection agreement and the processing of any refund.
- Enforcement by the Attorney General and fines for violations.

EFFECTIVE DATE: This act became effective January 1, 2022, and applies to agreements entered into on or after that date.