



## Testimony in Support of SB 157 November 15, 2023

Chairman Hackett, Vice Chair and Sponsor Lang, Ranking Member Craig, and other members of the Senate Insurance Committee, thank you for providing me the opportunity to present testimony in support of Senate Bill 157. My name is Travis Moore, and I am General Counsel for the Guaranteed Asset Protection Alliance (GAPA), a trade association dedicated to promoting fair and equitable legislation and regulation of our member companies and their products. GAPA members include insurance companies, lenders, and administrative service companies who, together, bring important vehicle financial protection products to market in a responsible and competitive way. These voluntary protection products provide consumers with valuable options for managing their finances and in particular their significant financial interest in their vehicle.

### About GAP

Available from automobile dealerships and creditors nationwide, Guaranteed Asset Protection (“GAP”) provides a valued financial safety net for thousands of borrowers in Ohio. 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 balance was \$25,000 and the primary 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
<b>Balance owed by borrower</b>	<b>\$ 0</b>

*Please note this 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 extinguished. GAP helps get them into that next financed vehicle with more equity than they would have otherwise had without GAP.

### **About this Legislation**

Ohio law currently authorizes the financing of a GAP Waiver in a vehicle retail installment sale under Section 1317.05 of the Revised Code. The intent of this legislation is to 1) enhance the definition of GAP contained therein to expressly authorize a product that provides an additional benefit toward the purchase of a replacement vehicle, 2) expressly authorize a related product called an Extended Wear and Use waiver (EWU) as a lease term, and 3) create an additional category of Vehicle Financial Protection Products called Vehicle Value Protection Agreements (VVPA) governed by existing consumer protections under the Ancillary Product Protection Contracts statute.

Allowing a GAP Waiver to also waive an amount, or provide a credit, toward a replacement vehicle enhances the value proposition for consumers. With this added benefit a GAP plan can not only help prevent consumers from incurring excessive negative equity in their replacement vehicle but can also help consumers build equity in that vehicle to reduce future risk and help them get into the car they desire. Consumers rely on their vehicle for taking their children to school, going to work, and seeing family. It is critical that in the event of an unexpected loss of their vehicle they can get back into a replacement car of their choosing as quickly as possible without having to settle on something they don't want due to the unexpected financial challenge. Authorizing this additional benefit under a GAP product helps consumers do that.

Similarly, consumers who choose to lease their vehicle may face unexpected costs at the end of a lease term. This legislation seeks to codify the definition of an Extended Wear and Use Waiver to ensure these products can be offered to consumers under a lease transaction. The proposed law clearly states that the products are voluntary and that a lease may not be conditioned upon their purchase. However, consumers who chose to purchase such coverage enjoy the peace of mind that unintended wear and excess miles during their lease term won't result in a financial strain when they turn the vehicle back in.

Finally, this legislation adds Vehicle Value Protection Agreements to the existing regulatory framework governing Ancillary Product Protection Contracts under Section 3905.426 in the Insurance Code. These products include things like Vehicle Value Protection Agreements, Depreciation Agreements, and Trade-In Credit Agreements. Allowing providers to offer these types of Vehicle Financial Protection Products gives consumers greater flexibility in how they choose to manage and protect their finances.

For example, Liz has a 3 year-old VW Atlas that is worth \$19,000. She has been making regular payments for the last three years, which means she only owes \$3k on her loan. She gets into an accident, but the vehicle is not totaled so no GAP coverage is triggered. Her car is

repaired but when she goes to trade it in a couple months later the dealer only offers her \$15,000 due to the diminished value that resulted from the car being in a bad accident. If she purchased a diminished value VVPA, the provider would compensate her for the additional \$4k loss in value improving her position to replace the vehicle with a new VW Atlas.

By incorporating these types of products into the Vehicle Product Protection Contract statute, consumers are afforded a much wider range of products available to protect their significant financial investment in a vehicle. Furthermore, this legislation applies all the same consumer protections to VVPAs that existing protection products adhere to. This includes maintaining financial assurances, such as a contract liability insurance policy, that guarantees the consumer will be made whole when it is time to pay. This also includes mandatory disclosures relating to the coverage and claims process. The legislation further creates a mandatory 30 day free-look period for VVPAs in which a consumer can cancel the contract for a full refund.

Ultimately, this legislation expands the options available to consumers to protect their investment that better suits their needs while maintaining significant consumer protections. Accordingly, we strongly encourage you to vote in favor of SB 157.