

CHAPTER 181
(CORRECTED COPY)

AN ACT concerning the regulation of guaranteed asset protection waivers and amending P.L.2017, c.82.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.2017, c.82 (C.17:16BB-5) is amended to read as follows:

C.17:16BB-5 Contents of GAP waiver agreement.

5. A GAP waiver agreement shall disclose, as applicable, in writing and in clear, understandable language that is easy to read, the following:

a. The name and address of the initial creditor and the borrower at the time of sale, and the identity of any administrator if different from the creditor.

b. The purchase price and the terms of the GAP waiver, including without limitation, the requirements for protection, conditions, or exclusions associated with the GAP waiver.

c. That the borrower may cancel the GAP waiver at any time. If cancelled within the free look period as specified in the waiver, the borrower shall be entitled to a full refund of the purchase price, so long as no benefits have been provided; or if benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the waiver. If cancelled after the free look period and no benefits have been provided, the borrower shall receive a pro rata refund less a cancellation fee no greater than \$50, in accordance with the terms of the waiver.

d. The procedure the borrower shall follow, if any, to obtain GAP waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may apply for waiver benefits.

e. (Deleted by amendment, P.L.2019, c.181)

f. The procedures for cancelling the GAP waiver agreement and receiving any refund due pursuant to section 6 of P.L.2017, c.82 (C.17:16BB-6).

g. The methodology for calculating any refund of the unearned purchase price of the GAP waiver due in the event of cancellation of the GAP waiver or early termination of the finance agreement.

h. That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease, may be conditioned upon the purchase of the GAP waiver.

2. Section 6 of P.L.2017, c.82 (C.17:16BB-6) is amended to read as follows:

C.17:16BB-6 Cancellation of GAP waiver agreements, free look period.

6. a. GAP waiver agreements shall be cancellable. A GAP waiver shall provide that if a borrower cancels a waiver within the free look period, the borrower will be entitled to a full refund of the purchase price, so long as no benefits have been provided; or if benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the waiver. In the event a borrower cancels the waiver after the free look period and no benefits have been provided, the borrower will be entitled to a pro rata refund of the purchase price, less any cancellation fee no greater than \$50 in accordance with the terms of the waiver.

b. In the event of a borrower's cancellation of the GAP waiver or early termination of the finance agreement after the agreement has been in effect beyond the free look period, the borrower shall be entitled to receive a pro rata refund of any unearned portion of the

purchase price of the waiver. The creditor shall provide, or cause the administrator or retail seller to provide, the borrower any refund due pursuant to this section within 60 days of the event terminating the finance agreement, without requiring the borrower to request the refund, or within 60 days of the receipt of a borrower's cancellation of the GAP waiver.

c. If the cancellation of a GAP waiver occurs as a result of a default under the finance agreement or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in subsection d. of this section.

d. Any cancellation refund under subsection a., b. or c. of this section may be applied by the creditor as a reduction of the amount owed under the finance agreement, unless the borrower can show that the finance agreement has been paid in full.

3. This act shall take effect on the 90th day next following enactment.

Approved July 19, 2019.