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September 12, 2022

M E M O R A N D U M

TO: Entities subject to the jurisdiction of the UCCC Administrator
FROM: Martha Fulford, UCCC Administrator
RE: Guidance on UCCC GAP Enforcement Priorities

A bill concerning Guaranteed Automobile Protection (“GAP”) is expected to be introduced in the 74th Colorado General Assembly, scheduled to convene on January 9, 2023 (“74th General Assembly”). In light of that potential legislation, the Uniform Consumer Credit Code (UCCC) Administrator (“Administrator”), with the approval of the Attorney General, provides the following guidance pursuant to CRS § 24-31-101(1)(i)(II) and CRS § 5-6-104(1)(b) and (4) to be effective leading up to and until adjournment *sine die* of the 2023 legislative session.

GAP

This Administrator and the Consumer Protection Section enforce various Colorado laws, including the Colorado Consumer Protection Act (“CCPA”), the UCCC, and 4 CCR 902-1:8 (“Rule 8”). These laws require creditors to refund consumers unearned GAP fees if consumers prepay their automobile loans prior to maturity or if their automobile loan is repossessed.

Colorado law ensures that consumers entitled to GAP benefits receive the full protection provided by Colorado law. The Administrator has entered into settlements with GAP administrators that did not provide consumers the full benefit of their GAP coverage and took deductions not permitted by Colorado law. [American Assurance Corporation \(\\$121,983\)](#).

Statement of Enforcement Discretion

In response to written requests and communications, legislation will be brought in the next regular session of the Colorado General Assembly related to GAP. Accordingly, leading up to and until the completion of the 2023 legislative session, the Administrator will exercise her discretion to not take administrative, disciplinary, or enforcement action concerning the following actions to be addressed by legislation:

- obtaining an affirmative written authorization for the purchase of GAP in digital form (as opposed to hard copy paper form), 4 CCR 902-1:8(b);
- providing consumers a separate written cancellation form, 4 CCR 902-1:8(c);
- taking deductions from the GAP benefit for salvage (i.e., the value of the totaled vehicle if the consumer chooses to retain it), 4 CCR 902-1:8(e);
- taking deductions from the GAP benefit if the consumer received or is entitled to receive a refund for cancellable products that were included in the auto loan for: credit insurance, prepaid taxes or fees, or service contracts, 4 CCR 902-1:8(e);
- taking deductions from the GAP benefit for prior damages **if prior to taking the deduction is the GAP administrator or lender obtains and retains documentary proof** that (1) the consumer submitted a prior insurance claim related to the prior damage, or (2) the consumer received prior payment for the subject prior damages, 4 CCR 902-1:8(e); and
- reimbursing a consumer for a deductible for property damage insurance in excess of \$500, 4 CCR 902-1:8(f).

The Administrator has evaluated each of these proposals and believes them to be sound adjustments to remove unnecessary administrative burdens from Colorado companies while not compromising strong consumer protections.

Upon the adjournment *sine die* of the 2023 legislative session, this letter is withdrawn without further action from the Administrator.