



September 9, 2022

Mark E. Susi, Acting Superintendent  
Bureau of Consumer Credit Protection  
35 State House Station  
Augusta, ME 04333

**RE: ME 12369 Proposed Rule Establishing Registration and Renewal for Guaranteed Asset Protection Waiver Administrators**

Dear Superintendent Susi,

The Guaranteed Asset Protection Alliance (“GAPA”) writes to identify a significant issue and offer to help shape ME 12369, the Proposed Rule Establishing Registration and Renewal (“Proposed Rule”) of Guaranteed Asset Protection Waiver Administrators. GAPA is comprised of companies experienced in offering valued guaranteed asset protection waiver products (“GAP”) throughout the country. GAPA members include insurance companies, lenders, and administrative services companies who, together, bring important products to market in a responsible and competitive way. Formed in 2006, GAPA’s mission is to preserve the viability of its industry and promote fair and equitable legislation and regulation of its members and their products so that its members may continue to offer meaningful options to consumers who choose to purchase this protection.

In 2017 and 2018 GAPA pursued model legislation to establish a clear and fair framework for regulation of GAP providers. These bills included important consumer safeguards and required GAP providers insure all GAP products under a reimbursement insurance policy. There are also extensive disclosure requirements, a mandatory free-look period, and voluntary cancellation anytime for a pro rata refund. These safeguards ensure a fair and competitive marketplace for GAP providers in Maine. Additionally, the Bureau requested inclusion of a

section allowing for limited form filing by administrators and ultimately provided the attached (Appendix A) registration form. Registration is not required under the model act and very few states require this additional burden. However, in light of the benefit of statutory and regulatory clarity, and the relatively minor burden of the attached registration process, GAPA members acquiesced to the request.

However, in 2021 without our involvement, the statute was amended to include section 6(a) requiring a potentially more robust registration process. Additionally, this section states that the superintendent “*may* require registration of an administrator that *may* include use of the nationwide mortgage licensing system and registry” Me. Rev. Stat. tit. 10, § 1500-H (*emphasis added*). While we concede that the statute expressly authorizes the use of the national mortgage licensing system (NMLS), we respectfully request that the Bureau consider exercising its discretionary authority under the statute to continue existing practices or seek industry guidance on another system that works well within the industry (for example: some GAPA members already work with the National Insurance Producer Registry). NMLS, as defined by 9 M.R.S. § 12-102(8), is the “registry for mortgage lender licensing and loan brokering . . .” As an industry revolving around motor vehicle financing, GAP providers have never had occasion to participate in or utilize the NMLS. We believe that the utilization of the NMLS would be inappropriate for the GAP industry.

As noted above, Me. Rev. Stat. tit. 10, § 1500-H 6-A provides that the “superintendent *may* require registration of an **administrator**.” Section 1500-H 1 A defines “Administrator” as “a person, other than an insurer or creditor, that performs administrative or operational functions pursuant to a waiver program.” Third party administrators are unlikely to be in the business of money transmission and would not fit within the requirement for registration under the NMLS.

Furthermore, the use of the word administrator is confusing. Section 1500-H 6A states that, “the **administrator** may establish, by rule, requirements for registration, including but not limited to . . .” and further states in subsection D “. . . [o]ther requirements for application for, amendment of or revocation of a registration or any other such activities as the **administrator** considers necessary.” Considering the statutory definition of “Administrator” it would seem the person performing the administrative or operational functions pursuant to a waiver program would be setting these requirements and not the superintendent. However, this is inconsistent with the definition of “Administrator” provided by the rule: “‘Administrator’ means the Superintendent of the Bureau of Consumer Credit Protection.” Given this inherent conflict, we would respectfully request clarification and or correction in this section. We would be happy to work with the Bureau to create workable registration solutions.

GAP is an important financial risk tool for consumers and brings value to many Maine residents every year. GAPA seeks to improve consumer experiences and administrative efficiencies through promotion of effective regulation. While we appreciate the adoption of most model act provisions in Maine, we are concerned that additional administrative burdens

will frustrate those goals. Respectfully, we request that the Bureau remove reference to NMLS and/or assure the industry that alternative means of registration will be available.

We stand ready to work with the Bureau in this regard.

Sincerely,

A handwritten signature in blue ink that reads "Travis Moore". The signature is written in a cursive style with a long horizontal line above the first few letters.

Travis Moore  
General Counsel  
m: 913-634-8001  
[travis@ppami.com](mailto:travis@ppami.com)  
**Guaranteed Asset Protection Alliance**

# **APPENDIX A**

STATE OF MAINE  
BUREAU OF CONSUMER CREDIT PROTECTION  
35 STATE HOUSE STATION  
AUGUSTA, ME 04333-0035  
TELEPHONE: (207) 624-8527 FAX: (207) 582-7699

**Guaranteed Asset Protection (GAP) Waivers –  
Annual Registration of GAP Administrators**

CALENDAR YEAR \_\_\_\_\_

In accordance with the provisions of the Maine's Guaranteed Asset Protection Waiver statutes (10 MRS, Chapter 229), registration is hereby filed with the Superintendent of the Bureau of Consumer Credit Protection by a company providing administrative or operational functions pursuant to a waiver program.

**FOR OFFICE USE ONLY**  
DATE NOTIFICATION REC'D: \_\_\_\_\_  
AMOUNT FEE REC'D: \_\_\_\_\_  
CASH [ ] CHECK [ ] CREDIT CARD [ ]  
CHECK NUMBER: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
DATE ENTRY: \_\_\_\_\_

1. BUSINESS NAME: \_\_\_\_\_
2. ADDRESS: \_\_\_\_\_
3. CITY/TOWN: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_
4. D/B/A: \_\_\_\_\_ FEIN/SS#: \_\_\_\_\_
5. TELEPHONE: \_\_\_\_\_ COUNTY: \_\_\_\_\_
6. NUMBER OF ADDITIONAL LOCATIONS OF YOUR BUSINESS THAT ADMINISTER GAP WAIVER CONTRACTS WITH MAINE CONSUMERS: \_\_\_\_\_  
ADDRESSES: \_\_\_\_\_  
\_\_\_\_\_  
(Use separate sheet if necessary)
7. LOCATION WHERE RECORDS OF GAP WAIVER ADMINISTRATION ARE STORED OR MAINTAINED: \_\_\_\_\_  
\_\_\_\_\_
8. CONTACT PERSON FOR EXAMS – Provide the name, title, address and telephone number of the person to contact for the scheduling of routine compliance examinations: \_\_\_\_\_  
\_\_\_\_\_
9. CONTACT PERSON FOR CONSUMER COMPLAINTS – Provide the name, title, address and telephone number of the person to contact for responses to consumer complaints: \_\_\_\_\_  
\_\_\_\_\_
10. BUSINESS STRUCTURE:

Appendix A

PROPRIETORSHIP    PARTNERSHIP    CORPORATION    LLP/LLC

11. NAMES AND ADDRESSES OF PROPRIETOR, PARTNERS, OR CORPORATE/LLP/LLC OFFICERS *and* CORPORATE/LLP/LLC OWNERS OR CONTROL PERSONS: \_\_\_\_\_

(Use separate sheet if necessary)

12. NAME AND ADDRESS OF PERSON TO WHOM WE MAY SEND LEGAL NOTICES: \_\_\_\_\_

13. PROVIDE SAMPLE COPIES OF ALL FORM WAIVERS USED OR PROPOSED FOR USE WITH MAINE CONSUMERS.

14. LIST INFORMATION ABOUT ALL LENDERS AND CREDITORS FOR WHICH YOUR COMPANY ADMINISTERED GAP WAIVERS FOR MAINE RESIDENTS DURING THE MOST RECENT CALENDAR YEAR:

<u>NAME</u>	<u>ADDRESS</u>
_____	_____
_____	_____
_____	_____

15. HOW MANY GAP WAIVERS DID YOUR COMPANY ADMINISTER FOR MAINE RESIDENTS DURING THE MOST RECENT CALENDAR YEAR? \_\_\_\_\_

16. FEES DUE:

A. ANNUAL NOTIFICATION FEE (Main Office)	\$ <u>20.00</u>
B. BRANCH FEE (\$10 Each Additional Location)	\$ _____
C. TOTAL FEES DUE (Sum of A & B)	\$ _____

I hereby certify that the statements in the foregoing report are true and correct to the best of my knowledge and belief.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

By: \_\_\_\_\_  
Signature

(Name Typed or Printed Legibly)

Title: \_\_\_\_\_

RETURN WITH PROPER FEES TO:

Bureau of Consumer Credit Protection, #35 State House Station, Augusta, ME 04333-0035

MAKE CHECKS PAYABLE TO "TREASURER, STATE OF MAINE"

Maine law (5 M.R.S.A. §130) requires assessment of \$20 for any check returned for insufficient funds.