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# Bill to Fix California GAP Problem Signed by Gov. Brown

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Legislation aimed at amending a California law that prohibited the inclusion of deductible coverage in the sale of GAP was signed into law by Gov. Jerry Brown last Monday, ending a four-month effort led by several trade organizations and an F&I product provider.

The bill, AB 125, was passed unanimously by the state Senate on April 25, 12 days after it received full support from the Senate Insurance Committee. The passage of the bill means dealers can now include deductible coverage in the sale of GAP, an outcome that even the authors of the legislation, San Diego-based OwnerGUARD Corp., along with sev-

eral trade organizations, doubted when they set out to overturn the law back on Jan. 14.

“It’s been amazing,” said Michelle Dicks, who serves as general counsel for OwnerGUARD. “I remember having breakfast with our lobbyist the

morning of Jan. 14, and now it’s done.”

The bill faced some hurdles along the way, especially in a state that’s embroiled in a bitter budget fight.

“[The Legislature] is technically in a special session right now, which means it is only supposed to be focusing on the budget,” Dicks said. “And the more time that passed and the closer those deadlines got, the more we knew there

was potential for everyone to get tied up with the budget.”

After moving quickly through the state assembly, which passed the bill unanimously on March 10, Dicks and the associations her company worked with were hopeful the bill would reach the Senate floor for a vote a week later.

However, a delay in getting the bill before the Senate Insurance Committee, a required step before the bill can go before the Senate floor, meant the legislative body wouldn’t consider the bill until after it returned from its spring recess, which occurred the week of April 18.

“We were able to get the bill before the Senate the first day they returned,



Dicks



Brown

which was on Monday (April 25)," Dicks said. "They passed the bill that day by a 40-0 vote."

Dicks said there also were concerns early on that Brown would not support the bill, but said the lobbyist the company hired back in January had been in talks with his office early on to secure his support. Still, the governor didn't sign the bill until late Monday night.

The bill's passage also came 25 days after the California Department of Insurance was to begin enforcing a portion of the law that required GAP providers to remove deductible coverage from their agreements. That law, which took effect Jan. 1, 2011, also barred dealers from including deductible coverage in the sale of GAP if they had not obtained an insurance agent's license.

The issue stems from an omnibus bill Gov. Arnold Schwarzenegger signed last September. That measure packaged, among other things, a new licensing requirement for sellers of accident and health insurance. How GAP got thrown into the requirement is a case of unintended consequences.

Less than a month before the law took effect, the California New Car Dealers Association (CNCDA) asked the state's insurance department to clarify whether a GAP waiver would fall under the new requirement. In its review of the law, the state agency determined that GAP waivers could no longer cover a customer's deductible.

The CNCDA and OwnerGUARD moved quickly to get the insurance department to reconsider its stance, arguing that consumers would suffer if the law wasn't fixed. Deductible coverage,

they said, further protects a consumer's ability to purchase a new vehicle if they suffer a total loss due to an accident or theft. After extensive talks, the agency agreed to work with the association and the company on fixer legislation.

"The department's support throughout the entire process was critical," said Dicks, who added that the department of insurance unofficially agreed not to

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**— Michelle Dicks, General Counsel, OwnerGUARD**

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fully enforce the original law until the outcome was known on the fixer legislation. "I don't think things would have gone smoothly without the department's support."

The two organizations also received help from various industry associations, including the Guaranteed Asset Protection Alliance. It was responsible for developing the original draft of the legislation. The American Financial Services Association and the Consumer

Credit Industry Association also were involved in the finalization of the bill. The three organizations also communicated their support of the legislation with the department of insurance.

Also playing a key role was John Norwood, a noted California lobbyist who specializes in the state's insurance and financial sector.

It was Norwood, working with the CNCDA and the California Financial Services Association, who got the Assembly Insurance Committee to place an urgency clause in the bill when it passed the legislation. The tag meant the bill would become law once it received Gov. Brown's signature. Without the urgency clause, the bill would have had to wait until Jan. 1, 2012, to become law.

"I remember getting an e-mail from John when the bill was going before the Assembly and even he was a little surprised at how things fell into place," Dicks said. "John's original assessment of the bill's passage was June, so I think he was very pleased at how quickly everything moved."

More important than restoring a key GAP feature, Dicks believes the four-month campaign to amend the California law will help if similar challenges arise in other states. "I think it showed that, when you have an issue that affects consumers and you have a company like OwnerGUARD step up to the plate, that things can be fixed," she said. "This is a valuable product to consumers and the industry. And if a similar situation comes up in other states, the industry now has some legislative history in California to work with." ■



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