

GREEN SHEET REDIGEST

HB 522

2018 Regular Session

Davis

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

INSURANCE/AUTOMOBILE: Provides relative to motor vehicle service contracts

DIGEST

Proposed law defines "reinsurer", "vehicle mechanical breakdown insurance policy", "vehicle mechanical breakdown insurer", "administrator", "consumer", "maintenance-only agreement", "motor vehicle manufacturer", "motor vehicle service contract", "person", "provider", "provider fee", "reimbursement insurance policy", "road hazard", "solvent", "service contract holder", and "warranty".

Present law permits each vehicle mechanical breakdown insurer to also act as a reinsurer in accordance with regulations adopted by the commissioner of insurance. Present law further requires all reserves for credit disability insurance to be retained and held by the credit disability insurer.

Proposed law retains present law and provides that a vehicle mechanical breakdown insurer shall be allowed credit for reinsurance ceded to an assuming insurer that satisfies the requirements of present law and the regulations thereunder.

Proposed law moves the regulation of motor vehicle service contract providers from the Dept. of Insurance to the secretary of state.

Proposed law does not apply to the following:

- (1) Warranties.
- (2) Maintenance-only agreements.
- (3) Service contracts sold or offered for sale to persons other than consumers.
- (4) Service contracts sold or offered for sale on a single item of property sold at the time of sale of the property or within a year of the date of sale.
- (5) A vehicle mechanical breakdown insurance policy or vehicle component coverage contract offered by a vehicle mechanical breakdown insurer in compliance with the applicable provisions of the Insurance Code.
- (6) Tire and wheel coverage sold by a retailer as a part of a service package in concert with the sale of one or more tires or one or more wheels in compliance with the applicable provisions of the Insurance Code.

Proposed law provides that motor vehicle service contracts shall not be issued, sold, or offered for sale in this state unless the provider has done each of the following:

- (1) Registered with the secretary of state and remains in good standing.
- (2) Provided a receipt for, or other written evidence of, the purchase of the motor vehicle service contract to the contract holder.
- (3) Provided a copy of the motor vehicle service contract to the service contract holder within a reasonable period of time from the date of purchase.

Proposed law provides for the registration process for motor vehicle service contract providers and fees for registration and renewals.

Proposed law provides that in order to assure the faithful performance of a provider's obligations to its contract holders and to insure its outstanding obligations, each provider shall comply with the following:

- (1) Each motor vehicle service contract shall be insured under a reimbursement insurance policy issued by an insurer licensed, registered, or otherwise authorized to transact the business of insurance in this state.
- (2) A provider that issues motor vehicle service contracts shall obtain and file with the secretary of state a copy of the reimbursement insurance policy issued to the provider.
- (3) The issuer of the reimbursement insurance policy shall do either of the following:
 - (a) Maintain surplus as to policyholders and paid-in capital of at least \$15,000,000.
 - (b) Maintain surplus as to policyholders and paid-in capital of less than \$15,000,000 but at least equal to \$10,000,000 and maintain a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one.

Proposed law provides that an insurer issuing a reimbursement insurance policy to a provider for any motor vehicle service contract issued, offered for sale, or sold in this state shall comply with all of the following:

- (1) Be deemed to have received the premium for the insurance upon the payment of the provider fee by a consumer for a service contract issued by an insured provider.
- (2) Provide reimbursement to, or payment on behalf of, the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's nonperformance, provide or pay for, on behalf of the provider, all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.
- (3) Accept a claim arising under the contract directly from a contract holder, if the provider does not comply with any contractual obligation pursuant to the contract within 60 days of presentation of a valid claim by the contract holder.
- (4)
 - (a) Terminate or not renew the policy covering service contracts issued in this state only after a notice of termination or nonrenewal is presented to the secretary of state and commissioner of insurance, at least 10 days prior to the termination or nonrenewal of the policy.
 - (b) The termination or nonrenewal shall not reduce the insurer's responsibility for any insured contract issued or sold prior to the date of termination or nonrenewal.

Proposed law provides that providers, administrators, and persons marketing, selling, or offering to sell motor vehicle service contracts are exempt from any licensing requirements of this state and shall not be subject to other registration information or security requirements.

Proposed law provides that the marketing, sale, offering for sale, issuance, making, proposing to make, and administration of motor vehicle service contracts by providers and related service contract sellers, administrators, and other persons is not insurance and shall be exempt from all provisions of the Louisiana Insurance Code.

Proposed law provides that motor vehicle manufacturers are exempt from the registration and financial responsibility requirements of proposed law.

Proposed law shall not be construed to limit the right of the insurer to seek indemnification or subrogation against the provider if the insurer provides or pays, or is obligated to provide or pay, for any covered contractual obligation incurred by the provider.

Proposed law provides for motor vehicle service contract requirements and disclosures.

Proposed law provides for a consumer's right to cancel.

Proposed law prohibits an insurer that issues a reimbursement insurance policy from terminating the policy until a notice of termination has been mailed or delivered to the secretary of state. Proposed law further provides that the termination of a reimbursement insurance policy does not reduce the insurer's responsibility for service contracts issued by an insured provider prior to the date of the termination.

Present law defines "mechanical reimbursement insurance".

Proposed law repeals present law.

(Amends R.S. 22:361(5), (9), and (10) and 362(B); adds R.S. 51:3151-3156; repeals R.S. 22:361(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Exempt certain tire and wheel coverage.
2. Define "road hazard".
3. Require a service contract covering a motor vehicle to contain a statement that the service contract is not insurance regulated by the Dept. of Insurance and that any concerns regarding the service contract shall be directed to the secretary of state.
4. Delete proposed law relative to the cancellation of reimbursement insurance policies.
5. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Delete the exemption for contracts on certain tangible property and add an exemption for contracts on a single item of property sold no later than one year after the original sale.
2. Clarify that a service contract may be for either a home or motor vehicle.
3. Clarify that the surety bond requirement applies to home service contract providers.
4. Clarify that the reimbursement insurance policy requirement applies to motor vehicle service contract providers.
5. Delete the requirement for a motor vehicle service contract to contain a statement directing concerns regarding the contract to the secretary of state.
6. Add an effective date.

7. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the reengrossed bill

1. Removes provisions relative to home service contract providers.
2. Moves provisions specific to motor vehicle service contract providers from Chapter 57 to Chapter 58 of Title 51.