
DIGEST

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HB 522 Reengrossed

2018 Regular Session

Davis

Abstract: Moves the registration of motor vehicle service contract providers from the Dept. of Insurance to the secretary of state.

Proposed law defines "reinsurer", "vehicle mechanical breakdown insurance policy", "vehicle mechanical breakdown insurer", "service contract", "motor vehicle manufacturer", and "road hazard".

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.

Present law provides for the regulation of home service contracts by the secretary of state.

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

Proposed law changes all references of "home service contracts" to "service contracts".

Present law exempts contracts sold or offered for sale on a single new item of property at the time of the sale of the property, or within one year of the date of the sale, which guarantee the performance of the service, repair, replacement, or maintenance of the property or guarantee to indemnify for the service, repair, replacement, or maintenance of a single item of residential property.

Proposed law repeals present law and adds an exemption for all of the following:

- (1) A service contract 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.
- (2) 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 present law.

- (3) 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 present law.

Present law establishes requirements for doing business as a home service contract provider.

Proposed law retains present law and adds a requirement that each service contract that covers motor vehicles or their component parts 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. Proposed law further requires the provider to file with the secretary of state a copy of the reimbursement insurance policy issued to the provider.

Proposed law require the issuer of the reimbursement insurance policy to do either of the following:

- (1) Maintain surplus as to policyholders and paid-in capital of at least \$15,000,000.
- (2) 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 requires an insurer issuing a reimbursement insurance policy to a provider to 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) 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.

Present law requires certain disclosures to be included with each home service contract sold in the state.

Proposed law retains present law and adds a requirement that service contracts insured under a reimbursement insurance policy contain a statement that the service contract is insured under a

service contract reimbursement insurance policy and state the name and address of the insurer.

Proposed law requires a motor vehicle service contract to contain a statement that the service contract is not insurance and is not regulated by the Dept. of Insurance.

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) and R.S. 51:3141-3146; 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.