

RÉSUMÉ DIGEST

ACT 592 (HB 522)

2018 Regular Session

Davis

Relative to motor vehicle service contracts, prior law defined "reinsurer", "vehicle mechanical breakdown insurance policy", and "vehicle mechanical breakdown insurer". New law amends these defined terms.

New law defines "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".

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

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

New law changes the regulation of motor vehicle service contract providers by the Dept. of Insurance to the registration of motor vehicle service contract providers with the secretary of state. New law further provides that any concerns regarding a motor vehicle service contract may be directed to the attorney general.

New 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 La. 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 La. Insurance Code.

New law prohibits motor vehicle service contracts from being 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.

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

New law requires, in order to assure the faithful performance of a provider's obligations to its contract holders and to insure its outstanding obligations, all of the following:

- (1) Each motor vehicle service contract to 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 to 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 to 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.

New law requires 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 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.

New law 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.

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

New 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.

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

New 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.

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

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

New law provides for prohibited acts by motor vehicle service contract providers.

Prior law defined "mechanical reimbursement insurance".

New law repeals prior law.

Effective February 1, 2019.

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