

4040--A

Cal. No. 241

2011-2012 Regular Sessions

I N S E N A T E

March 15, 2011

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the insurance law, in relation to service contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (k) of section 7902 of the insurance law, as
2 amended by chapter 264 of the laws of 2006, is amended to read as
3 follows:
4 (k) "Service contract" means a contract or agreement, for a separate
5 or additional consideration, for a specific duration to perform the
6 repair, replacement or maintenance of property, or indemnification for
7 repair, replacement or maintenance, due to a defect in materials or
8 workmanship or wear and tear, with or without additional provision for
9 indemnity payments for incidental damages, provided any such indemnity
10 payment per incident shall not exceed the purchase price of the property
11 serviced. Service contracts may include towing, rental and emergency
12 road service, and may also provide for the repair, replacement or main-
13 tenance of property for damage resulting from power surges and acci-
14 dental damage from handling. Service contracts may also include
15 contracts to repair, replace or maintain residential appliances and
16 systems. Such term shall also mean a contract or agreement made (1) by
17 or for the manufacturer or seller of a motor vehicle tire for repair or
18 replacement of the tire or wheel as the result of damage arising from a
19 road hazard, (2) BY OR FOR THE SUPPLIER OR SELLER OF A SERVICE FOR
20 REPAIR OF CHIPS OR CRACKS IN A MOTOR VEHICLE WINDSHIELD, BUT NOT INCLUD-
21 ING SERVICES THAT INVOLVE THE REPLACEMENT OF THE ENTIRE WINDSHIELD, AND
22 (3) BY OR FOR THE SUPPLIER OR SELLER OF A SERVICE FOR REPAIR OR REMOVAL
23 OF DENTS, DINGS OR CREASES FROM A MOTOR VEHICLE WITHOUT AFFECTING THE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 EXISTING PAINT FINISH USING PAINTLESS DENT REPAIR TECHNIQUES, BUT NOT
2 INCLUDING SERVICES THAT INVOLVE THE REPLACEMENT OF VEHICLE BODY PANELS,
3 OR SANDING, BONDING OR PAINTING.

4 S 2. Subsection (a) of section 7903 of the insurance law, as added by
5 chapter 614 of the laws of 1997, is amended to read as follows:

6 (a) [Notwithstanding] NOTWITHSTANDING any other provision of this
7 chapter to the contrary, the marketing, sale, offering for sale, issu-
8 ance, making, proposing to make and administration of service contracts
9 by any provider, administrator or other person, shall be exempt from all
10 other provisions of this chapter. A provider may, but is not required
11 to, appoint an administrator or other designee to be responsible for any
12 or all of the administration of service contracts and compliance with
13 this article. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A
14 PROVIDER OF A SERVICE CONTRACT, AS DEFINED IN PARAGRAPHS TWO AND THREE
15 OF SUBSECTION (K) OF SECTION SEVEN THOUSAND NINE HUNDRED TWO OF THIS
16 ARTICLE, SHALL, AT LEAST THIRTY DAYS PRIOR TO THE EFFECTIVE DATE OF AN
17 INITIAL PROVIDER FEE, OR A CHANGE IN A PROVIDER FEE, FILE THE AMOUNT OF
18 THE PROVIDER FEE WITH THE SUPERINTENDENT AND SUCH FILING SHALL BE OPEN
19 TO PUBLIC INSPECTION; AND PROVIDED FURTHER THAT THE PROVIDER FEE SHALL
20 NOT EXCEED THE AMOUNT FILED. THE REQUIREMENT TO FILE THE AMOUNT OF THE
21 PROVIDER FEE WITH THE SUPERINTENDENT IN THIS SUBSECTION SHALL NOT APPLY
22 TO FEES SET FORTH IN ANY AGREEMENT TO WHICH AN AUTHORIZED INSURER IS A
23 PARTY.

24 S 3. This act shall take effect immediately.