

4040

2011-2012 Regular Sessions

I N   S E N A T E

March 15, 2011

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Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

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

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

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

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

18 S 3. This act shall take effect immediately.