STATE OF NEW YORK

8525

IN SENATE

May 9, 2018

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:

Section 1. Section 7901 of the insurance law is amended by adding a new subsection (c) to read as follows:

(c) The products listed in subsection (b) of this section shall also not constitute insurance and shall not be subject to the insurance laws of this state except as made expressly applicable to them.

§ 2. Subsection (k) of section 7902 of the insurance law, as amended by chapter 409 of the laws of 2012, is amended and a new subsection (j-1) is added to read as follows:

(j-1) "Road hazard" means a hazard that is encountered while driving a motor vehicle and which may include, but not be limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(k) "Service contract" means a contract or agreement, for a separate or additional consideration, for a specific duration to perform the repair, replacement or maintenance of property, or indemnification for repair, replacement or maintenance, due to a defect in materials or workmanship or wear and tear, with or without additional provision for indemnity payments for incidental damages, provided any such indemnity payment per incident shall not exceed the purchase price of the property serviced. Service contracts may include towing, rental and emergency road service, and may also provide for the repair, replacement or maintenance of property for damage resulting from power surges and accidental damage from handling. Service contracts may also include contracts to repair, replace or maintain residential appliances and systems. Such term shall also mean a contract or agreement [~~made~~] **to provide one or more of the following services** (1) [~~by or for the manufacturer or seller of a motor vehicle tire for~~] repair or replacement of the tire or wheel as the result of damage arising from a road hazard, (2) [~~by or for the supplier or seller of a service for~~] repair

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

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of chips or cracks in a motor vehicle windshield, but not including services that involve the replacement of the entire windshield, [~~and~~] (3) [~~by or for the supplier or seller of a service for~~] repair or removal of dents, dings or creases from a motor vehicle without affecting the existing paint finish using paintless dent repair techniques, but not including services that involve the replacement of vehicle body panels, or sanding, bonding or painting**, (4) the replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen, and (5) other services which may be approved by the superintendent, if not inconsistent with other provisions of this article**.

§ 3. Subsection (a) of section 7903 of the insurance law, as amended by chapter 409 of the laws of 2012, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter to the contrary, the marketing, sale, offering for sale, issuance, making, proposing to make and administration of service contracts by any provider, administrator or other person, shall be exempt from all other provisions of this chapter. A provider may, but is not required to, appoint an administrator or other designee to be responsible for any or all of the administration of service contracts and compliance with this article. Notwithstanding any other provision of this article, a provider of a service contract, as defined in paragraphs two and three of subsection (k) of section seven thousand nine hundred two of this article, shall, at least thirty days prior to the effective date of an initial provider fee, or a change in a provider fee, file the amount of the provider fee with the superintendent and such filing shall be open to public inspection; and provided further that the provider fee shall not exceed**, but may be less than,** the amount filed. The requirement to file the amount of the provider fee with the superintendent in this subsection shall not apply to fees set forth in any agreement to which an authorized insurer is a party.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.