§ 7903. Requirements for doing business. (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 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.

(b) Service contracts shall not be issued, sold or offered for sale in this state unless the provider:

(1) provides a receipt for, or other written evidence of, the purchase of the service contract and a copy of the terms and conditions of the service contract to the service contract holder where the sale takes place in a retail store or other place of business. A copy of the service contract in all cases shall be provided to the service contract holder within a reasonable period of time after the date of purchase of the service contract; and

(2) otherwise complies with this article.

(c) In order to assure the faithful performance of a provider's obligations to its contract holders, each provider who is contractually obligated to provide service under a service contract shall comply with one of the following three paragraphs of this subsection:

(1) insure the performance of its obligations under all service contracts pursuant to a service contract reimbursement insurance policy issued by an insurer authorized to issue service contract reimbursement insurance in this state or procured by an excess line licensee pursuant to section two thousand one hundred eighteen of this chapter. Each

provider may maintain a maximum of five service contract reimbursement insurance policies insuring its service contracts actively offered. In the event the provider fails to insure its obligations pursuant to this paragraph or in the event that such insurance shall lapse or be terminated, the provider shall comply with either paragraph two or three of this subsection within forty-five days of the insurance lapse or termination;

(2) (A) maintain a funded reserve account for its obligations under its service contracts issued and outstanding in this state, which reserve account (i) contains reserves in an amount not less than forty percent of the gross consideration received upon the sale of, less claims paid under, all its service contracts then in force, but not less than zero, and (ii) shall be subject to examination and review by the superintendent; and

(B) place in trust with the superintendent a financial security deposit, having a value of not less than five percent of the gross consideration received upon the sale of, less claims paid under, all service contracts issued and then in force, but not less than fifty thousand dollars, consisting of one or more of the following:

(i) a surety bond issued by an authorized surety;

(ii) securities of the type eligible for deposit by authorized insurers in this state;

(iii) cash; or

(iv) a letter of credit issued by a qualified United States financial institution; or

(3) (A) maintain a net worth or stockholders' equity of at least one hundred million dollars; and

(B) provide the superintendent with a copy of the financial statements of the provider, either on a stand alone basis or consolidated with its consolidated affiliates, included in its or its direct or indirect parent company's most recent annual report on form 10-K or form 20-F filed with the securities and exchange commission within the last calendar year, or if the provider or its direct or indirect parent company is not required to file such reports with the securities and exchange commission, a copy of the audited financial statements of the provider, either on a stand alone basis or consolidated with its consolidated affiliates. If the net worth or stockholders' equity of the

provider, either on a stand alone basis or consolidated with its consolidated affiliates, as shown in the foregoing financial statements is at least one hundred million dollars, the provider shall be deemed to meet the requirements of this paragraph and there shall be no requirement of a guarantee, reimbursement insurance, or other form of financial stability arrangement. In the event the net worth or stockholders' equity of the provider, either on a stand alone basis or consolidated with its consolidated affiliates, is not at least one hundred million dollars, or the net worth or stockholders' equity of the provider, as aforesaid, is not determinable from the foregoing audited financial statements, the provider shall comply with paragraph one or two of this subsection within forty-five days of becoming aware of such deficiency. If the provider's direct or indirect parent company's form 10-K, form 20-F, or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in this state.

(d) Premium taxes. (1) Provider fees shall not be subject to premium taxes.

(2) Premiums collected on service contract reimbursement insurance policies shall be subject to applicable premium taxes.

(e) Service contracts shall require every provider to permit the service contract holder to return the contract within at least twenty days of the date of mailing of the service contract or within at least ten days if the service contract is delivered at the time of the sale or within a longer time period permitted under the contract. If no claim has been made under the contract, the contract shall be void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty per month shall be added to a refund that is not made within thirty days of return of the contract to the provider. The provisions of this subsection only apply to the original purchaser of the service contract.