

HB154 INTRODUCED



1 HB154
2 P2LKRRGG-1
3 By Representative McCampbell
4 RFD: Judiciary
5 First Read: 08-Feb-24



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SYNOPSIS:

Generally, a service contract is an agreement to perform the repair, replacement, or maintenance of property for the operational or structural failure due to defects or normal wear and tear.

This bill would require a service contract provider to define certain terms used in its contracts, to disclose in a specified manner certain limitations of its obligation to satisfy claims or resolve disputes under the contract, and to disclose these limitations in any marketing and advertising content presented to a prospective customer.

This bill would also specify the size and placement of certain disclosures in a service contract and related marketing and advertising content.

A BILL
TO BE ENTITLED
AN ACT

Relating to service contracts; to amend Section 8-32-5, Code of Alabama 1975, to require a service contract provider to define certain terms used in the contract, to clearly disclose certain limitations on a provider's obligation and



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29 liability to the contract holder, and to require certain
30 disclosures in related marketing and advertising content
31 presented to a prospective customer.

32 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

33 Section 1. Section 8-32-5, Code of Alabama 1975, is
34 amended to read as follows:

35 "§8-32-5

36 (a) Service contracts sold or offered for sale in this
37 state, in their entirety, shall satisfy all of the following
38 requirements:

39 (1) Shall be written, printed, or typed in eight point
40 type size, or larger, and shall comply with the requirements
41 set forth in this section, as applicable.

42 (2) Shall define the terms "repair," "replace," and
43 "cash value" or any term used to refer to a provider's right
44 to satisfy a claim by paying a cash payment to the contract
45 holder in lieu of repairing or replacing a covered property in
46 an amount less than the provider's cost to repair or replace
47 the property.

48 (3) Shall disclose on the first page of the service
49 contract in boldface print no smaller than the largest type on
50 the page except for headings, both of the following:

51 a. Any limit on the maximum amount that the provider
52 may be liable to a contract holder's remedy in the event of a
53 claim or dispute over coverage and an explanation of the
54 circumstances to which the limits apply.

55 b. Any right of the provider to satisfy a claim or
56 resolve a dispute with the contract holder by paying the cash



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57 value of a covered property in an amount less than the
58 provider's cost to repair or replace the property in lieu of
59 repairing or replacing the property.

60 (4) Shall disclose in all marketing and advertising
61 content and any overview of benefits under a contract to
62 repair or a replacement contract, in the same type size or
63 larger than all other type on the same page except headings,
64 that the provider has the right to pay the policy holder the
65 cash value of a covered property in an amount less than the
66 provider's cost to repair or replace a covered property in
67 lieu of repairing or replacing the property.

68 (b) Service contracts insured under a reimbursement
69 insurance policy pursuant to ~~subdivision (1) of subsection (f)~~
70 ~~of~~ Section ~~8-32-38-32-3~~ 8-32-3(f) (1) shall contain a statement in
71 substantially the following form:

72 "Obligations of the provider under this service
73 contract are guaranteed under a service contract reimbursement
74 insurance policy."

75 If the provider fails to pay or to provide service on a
76 claim within 60 days after proof of loss has been filed, the
77 service contract holder is entitled to make a claim directly
78 against the reimbursement insurance company. The service
79 contract shall state the name and address of the reimbursement
80 insurance company.

81 (c) Service contracts not insured under a reimbursement
82 insurance policy pursuant to subdivision (1) of subsection (f)
83 of Section 8-32-3 shall contain a statement in substantially
84 the following form:



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85 "Obligations of the provider under this service
86 contract are backed by the full faith and credit of the
87 provider."

88 (d) Service contracts shall state the name and address
89 of the provider, and shall identify any administrator, the
90 service contract seller, and the service contract holder to
91 the extent that the name and address of the service contract
92 holder has been furnished by the service contract holder.

93 ~~Neither the name of the service contract seller nor other~~
94 ~~provisions are~~ The information described in this subsection is
95 not required to be preprinted on the service contract and may
96 be added to the service contract at the time of sale.

97 (e) Service contracts shall state the purchase price of
98 the service contract, the term of the service contract, and
99 any applicable renewal provisions. ~~Neither the purchase price~~
100 ~~nor any other provisions are~~ The information described in this
101 subsection is not required to be ~~pre-printed~~ preprinted on the
102 service contract and may be negotiated at the time of sale
103 with the service contract holder.

104 (f) If the provider will reimburse the contract holder
105 for repair work performed by third parties and if prior
106 approval of repair work is required, (i) the service contract
107 shall state the procedure for obtaining prior approval and for
108 making a claim, including a toll-free telephone number for
109 claim service, and (ii) if the service contract provides
110 services essential to public health, safety, or welfare, the
111 service contract shall either provide for 24-hour telephone
112 assistance, ~~or~~ or state the procedure for obtaining emergency



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113 repairs performed outside of normal business hours.

114 (g) Service contracts shall state the existence of any
115 deductible amount.

116 (h) Service contracts shall describe the property upon
117 which the services are to be provided, the services to be
118 provided, and any limitations, exceptions, or exclusions to
119 the services to be provided.

120 (i) Service contracts shall state whether the use of
121 non-original manufacturer's parts is allowed.

122 (j) Service contracts shall state any restrictions
123 governing the transferability of the service contract.

124 (k) Service contracts shall state the terms,
125 restrictions, or conditions governing cancellation of the
126 service contract prior to the termination or expiration date
127 of the service contract by either the provider or by the
128 service contract holder. The provider of the service contract
129 shall mail a written notice to the service contract holder at
130 the last known address of the service contract holder
131 contained in the records of the provider at least five days
132 prior to cancellation by the provider. Prior notice is not
133 required if the reason for cancellation is nonpayment of the
134 provider fee or a material misrepresentation by the service
135 contract holder to the provider relating to the covered
136 property or its use. The notice shall state the effective date
137 of the cancellation and the reason for the cancellation.

138 (l) Service contracts shall set forth the obligations
139 and duties of the service contract holder relating to the
140 property covered by the service contract.



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141 (m) Service contracts shall state whether or not the
142 service contract provides for or excludes consequential
143 damages or preexisting conditions, to the extent applicable.

144 (n) Service contracts may contain other provisions as
145 determined by the provider."

146 Section 2. This act shall become effective on October
147 1, 2024.

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