

SB219 INTRODUCED



1 SB219
2 TBXHI99-1
3 By Senator Kitchens
4 RFD: Banking and Insurance
5 First Read: 29-Jan-26



SYNOPSIS:

Under existing law, service contract providers, who administer or sell contracts to cover the repair, maintenance, or replacement of a purchased good, are required to register with the Commissioner of Insurance and their registration fees are paid into the State Treasury to the credit of the Service Contract Revolving Fund.

This bill would require all service contract provider registration fees to be paid into the State Treasury to the credit of the Special Examination Revolving Fund.

This bill would clarify that any adjustment in the service contract provider registration fee is in accordance with changes in the Consumer Price Index under existing law.

This bill would also require any unencumbered and unexpended balance remaining in the Service Contract Revolving Fund to be transferred to the credit of the Special Examination Revolving Fund.

A BILL
TO BE ENTITLED
AN ACT



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Relating to insurance; to amend Section 8-32-3, Code of Alabama 1975; to require all service contract provider registration fees to be paid into the State Treasury to the credit of the Special Examination Revolving Fund in lieu of the Service Contract Revolving Fund; to clarify any service contract provider registration fee adjustment is in accordance with changes in the Consumer Price Index under existing law; to require any unencumbered and unexpended balance remaining in the Service Contract Revolving Fund to be transferred to the credit of the Special Examination Revolving Fund; and to amend Sections 8-32-1 and 8-32-5, Code of Alabama 1975, to make conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 8-32-3, Code of Alabama 1975, is amended to read as follows:

"§8-32-3

(a) Either the provider or its designee shall:

(1) Provide a receipt for, or other written evidence of, the purchase of the service contract to the contract holder.

(2) Provide a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase.

(b) 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 chapter.



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(c) Each provider of service contracts sold in this state shall file a registration with the commissioner on a form prescribed by the commissioner. Each provider shall pay to the commissioner a fee in the amount of two hundred dollars (\$200) annually, or as otherwise adjusted pursuant to Section 41-1-11. All fees collected shall be ~~paid into a special revolving fund to be set up by the State Treasurer referred to as the "Service Contract~~ deposited into the State Treasury to the credit of the Special Examination Revolving Fund." ~~The Service Contract Revolving Fund shall be used in the supervision and examination of providers and otherwise in the administration of this chapter; provided however, that nothing in this section shall be construed to mean that all of the expenses of supervision and examination of providers and in the administration of this chapter incurred by the State Insurance Department shall come from the Service Contract Revolving Fund.~~

~~(d) All funds now or hereafter deposited in the State Treasury to the credit of the Service Contract Revolving Fund shall not be expended for any purpose whatsoever unless the same shall have been allotted and budgeted in accordance with the provisions of Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, and only in the amounts and for the purposes provided by the Legislature in the general appropriation bill, other appropriations bills or this chapter.~~

~~(e) There is hereby appropriated for the fiscal year ending September 30, 1998, from the Service Contract Revolving~~



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~~Fund to the State Department of Insurance those amounts as deemed necessary to carry out the provisions of this chapter as determined by the Commissioner of Insurance.~~

~~(f)~~ (d) In order to assure the faithful performance of a provider's obligations to its service contract holders, each provider shall be responsible for complying with the requirements of one of the following subdivisions:

(1) Insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or issued pursuant to Chapter 10, Title 27.

(2) Do both of the following:

a. Maintain a funded reserve account for its obligations under its service contracts sold and outstanding in this state. The reserves shall be based on the loss experience of the provider as certified by an actuary or, at the election of the provider, the reserves shall be 30 percent of the aggregate provider fees for all service contracts sold and then in force. The reserve account shall be subject to examination and review by the commissioner.

b. Place in trust with the commissioner a financial security deposit, having a value of not less than five percent of the aggregate provider fees, less claims paid, for all service contracts sold and then in force, but not less than twenty-five thousand dollars (\$25,000) consisting of one of the following:

~~(i)~~ 1. A surety bond issued by an authorized surety.

~~(i)~~ 2. Securities of the type eligible for deposit by



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authorized insurers in this state.

~~(iii)~~ 3. Cash.

~~(iv)~~ 4. A letter of credit issued by a qualified financial institution.

~~(v)~~ 5. Another form of security prescribed by regulations issued by the commissioner.

(3) Do both of the following:

a. Maintain a net worth or stockholders' equity of one hundred million dollars (\$100,000,000).

b. Upon request, provide the commissioner with a copy of the financial statement of the provider included in its most recent annual report on Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the provider does not file with the SEC, a copy of the audited financial statements of the provider, which shows a net worth of the provider of at least one hundred million dollars (\$100,000,000). A consolidated Form 10-K, Form 20-F, or audited financial statements shall meet the requirements of this chapter for the provider if it shows a net worth or stockholders' equity of the provider of at least one hundred million dollars (\$100,000,000) and there shall be no requirement of a parent company guarantee, reimbursement insurance, or other form of financial stability requirement. However, if the Form 10-K, Form 20-F, or audited financial statements of the parent company of the provider are filed to meet the provider's financial stability requirement because the provider's net worth or stockholders' equity of the provider is not at least one hundred million dollars



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141 (\$100,000,000) ~~r~~ or because the net worth or stockholders'
142 equity is not determinable from the consolidated Form 10-K,
143 Form 20-F, l or audited financial statements of the parent
144 company, then the parent company shall agree to guarantee the
145 obligations of the provider relating to service contracts sold
146 by the provider in this state.

147 ~~(g)~~ (e) Service contracts shall require the provider to
148 permit the service contract holder to return the service
149 contract within no less than 20 days of the date the service
150 contract was mailed to the service contract holder or within
151 no less than 10 days of delivery if the service contract is
152 delivered to the service contract holder at the time of sale.
153 Upon return of the service contract to the provider within the
154 applicable time period, if no claim has been made under the
155 service contract prior to its return to the provider, the
156 service contract is void and the provider shall refund to the
157 service contract holder the full purchase price of the service
158 contract including any premium paid for any applicable
159 reimbursement insurance policy. Any refund due a service
160 contract holder may be credited to any outstanding balance of
161 the account of the service contract holder, and the excess, if
162 any, shall be refunded to the service contract holder. The
163 right to void the service contract provided in this subsection
164 ~~(g)~~ is not transferable and shall apply only to the original
165 service contract purchaser, and only if no claim has been made
166 prior to its return to the provider. A 10 percent penalty per
167 month shall be added to a refund that is not paid or credited
168 within 45 days after return of the service contract to the



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169 provider.

170 ~~(h) In the event~~ (f) If the original service contract
171 holder makes a written demand for cancellation of a service
172 contract pursuant to the terms of the service contract, the
173 provider shall refund to the service contract holder the
174 unearned portion of the full purchase price of the service
175 contract, including the unearned portion of any premium paid
176 for any applicable reimbursement insurance policy. Any refund
177 due a service contract holder may be credited to any
178 outstanding balance of the account of the service contract
179 holder, and the excess, if any, shall be refunded to the
180 service contract holder. If the original contract purchaser or
181 a contract holder elects cancellation, the provider may retain
182 an administrative fee of up to twenty-five dollars (\$25) for
183 issuance of the service contract if ~~such~~ the fee is provided
184 for in the service contract; however, this amount may not be
185 deducted ~~in the event~~ if the service contract is terminated
186 pursuant to ~~the provisions of~~ subsection ~~(g)~~ (e).

187 ~~(i)~~ (g) (1) Provider fees are not subject to premium
188 taxes.

189 (2) Premiums for reimbursement insurance policies are
190 subject to applicable taxes.

191 ~~(j)~~ (h) Except for the registration requirement in
192 subsection (c), providers, administrators, and other persons
193 marketing, selling, or offering to sell service contracts for
194 providers are exempt from any licensing requirements of this
195 state.

196 ~~(k)~~ (i) Providers are not required to comply with any



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197 provision of Title 27."

198 Section 2. Any unencumbered and unexpended balance
199 remaining in the Service Contract Revolving Fund on October 1,
200 2026, shall be transferred to the credit of the Special
201 Examination Revolving Fund.

202 Section 3. Sections 8-32-1 and 8-32-5 of the Code of
203 Alabama 1975, are amended to make conforming changes to read
204 as follows:

205 "§8-32-1

206 (a) The purpose of this chapter is to create a
207 framework to regulate service contracts sold to consumers in
208 this state.

209 (b) The following are exempt from Sections 8-32-2 to
210 8-32-12, inclusive, of this chapter:

211 (1) Warranties.

212 (2) Maintenance agreements.

213 (3) Warranties, service contracts, or maintenance
214 agreements offered by electric, gas, water, or telephone
215 utilities on their transmission devices.

216 (4) Service contracts sold or offered for sale in
217 commercial transactions.

218 (5) Service contracts sold or offered for sale to
219 persons other than consumers.

220 (6) Service contracts sold at the point of sale, or
221 within 60 days of the original purchase date of the property,
222 which cover tangible property where the tangible property for
223 which the service contract is sold, has a purchase price of
224 two hundred and fifty dollars (\$250) or less, exclusive of



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225 sales tax.

226 (c) Manufacturer's service contracts on the
227 manufacturer's products and service contracts sold or offered
228 for sale by Alabama electric cooperatives, and their
229 subsidiaries and affiliates, including without limitation,
230 affiliates managed or controlled by electric cooperatives, are
231 required to comply only with Section 8-32-3(a), Section
232 8-32-3~~(g)~~(e), Section 8-32-5(a), Section 8-32-5(d) ~~to~~ through
233 (n), ~~inclusive~~, Section 8-32-6, Section 8-32-10(a), and
234 Section 8-32-10(c) ~~to~~ through (f), ~~inclusive~~, as applicable,
235 of this chapter.

236 (d) The types of agreements referred to in subsections
237 (b) and (c) are not insurance for any purpose including,
238 without limitation, compliance with the Alabama Insurance
239 Code."

240 "§8-32-5

241 (a) Service contracts sold or offered for sale in this
242 state, in their entirety, shall be written, printed, or typed
243 in eight point type size, or larger, and shall comply with the
244 requirements set forth in this section, as applicable.

245 (b) Service contracts insured under a reimbursement
246 insurance policy pursuant to ~~subdivision (1) of subsection (f)~~
247 ~~of~~ Section 8-32-3 (d) (1) shall contain a statement in
248 substantially the following form:

249 "Obligations of the provider under this service
250 contract are guaranteed under a service contract reimbursement
251 insurance policy."

252 If the provider fails to pay or to provide service on a



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claim within 60 days after proof of loss has been filed, the service contract holder is entitled to make a claim directly against the reimbursement insurance company. The service contract shall state the name and address of the reimbursement insurance company.

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

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

(d) Service contracts shall state the name and address of the provider, and shall identify any administrator, the service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder. Neither the name of the service contract seller nor other provisions are required to be preprinted on the service contract and may be added to the service contract at the time of sale.

(e) Service contracts shall state the purchase price of the service contract, the term of the service contract and any applicable renewal provisions. Neither the purchase price nor any other provisions are required to be pre-printed on the service contract and may be negotiated at the time of sale with the service contract holder.

(f) If the provider will reimburse the contract holder



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for repair work performed by third parties and if prior approval of repair work is required⁷; (i) the service contract shall state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service; and (ii) if the service contract provides services essential to public health, safety, or welfare, the service contract shall either provide for 24-hour telephone assistance, or state the procedure for obtaining emergency repairs performed outside of normal business hours.

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

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

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

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

(k) ~~Service contracts~~ A service contract shall state the terms, restrictions, or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the provider or by the service contract holder. The provider of the service contract shall mail a written notice to the service contract holder at the last known address of the service contract holder contained in the records of the provider at least five days prior to cancellation by the provider. Prior notice is not



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required if the reason for cancellation is nonpayment of the provider fee or a material misrepresentation by the service contract holder to the provider relating to the covered property or its use. The notice shall state the effective date of the cancellation and the reason for the cancellation.

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

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

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

Section 4. This act shall become effective on October 1, 2026.