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Service Contract Provider and Administrator Registration Requirements

The Bureau of Insurance has recently received complaints involving extended service contracts issued or administered by entities that have not registered with the Bureau as service contract providers or administrators. These include, but are not limited to, sales by used motor vehicle dealers and sales by direct mail. The purpose of this Bulletin is to draw attention to the registration requirements of the Service Contract Act.

Service contracts are sometimes referred to as "extended warranties," and are therefore confused with true warranties, but they are not the same. The Act defines service contract as an "agreement for a separately stated consideration for a specific duration" to repair, replace or maintain property, including motor vehicles. The phrase "separately stated consideration" means that the consumer pays additional money for the service contract above the charge for the covered item. This distinguishes a service contract from a true warranty. A warranty comes with the item being purchased as part of its purchase price, acquisition of the item being the primary goal of that transaction, and the bulk of the purchase price reflecting the item's real value.[1] The primary goal of a service contract is to protect the purchaser from the item's failure after the original warranty has ended.

The Act applies to service contracts on items of personal property that cost more than $100, are sold to consumers, and are used for non-commercial purposes. The Act removes these service contracts from the definition of insurance and establishes a registration process to allow their sale while maintaining certain consumer protections.

Service contract providers and administrators must register with the Superintendent before transacting any service contract business in Maine. The "provider" of a service contract is the obligor; that is, the entity that has promised to the consumer that covered services will be provided or reimbursed. The Act defines an administrator as anyone who will administer a

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[1] When the purchase price mostly reflects the anticipated cost of repairs to other property rather than the actual cost of the "item sold," then the contract is not a true warranty because the item's acquisition is not the primary goal of the transaction. In particular, if a motor vehicle additive is sold with a contract to provide repairs to the motor vehicle, that transaction is regulated as a service contract on the motor vehicle, not as a warranty on the additive. 24-A M.R.S. § 7102(11)(A).

service contract. This includes, but is not necessarily limited to, the entity designated as the contact for handling claims under a service contract.

Anyone acting as a provider or administrator without having registered with the Bureau may be subject to enforcement actions for violating the Act.

Registration forms are on the Bureau's web site at this link: http://www.maine.gov/pfr/insurance/producer/licforms.htm#ServiceContractProviderAdministrator.

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NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.