HCS HB 221 -- SERVICE CONTRACTS

This bill changes the laws regarding motor vehicle extended service contracts and product service contracts.

MOTOR VEHICLE EXTENDED SERVICE CONTRACTS

The bill:

(1) Specifies that a "fronting company" is a dealer that authorizes a third-party administrator or provider to use its name or business to evade or circumvent a sale, an offer for sale, or a solicitation of the sale of a motor vehicle extended service contract to a consumer;

(2) Allows only motor vehicle dealers and manufacturers, boat dealers, federally insured depository institutions, and licensed lenders to market or sell motor vehicle extended service contracts;

(3) Prohibits a dealer from acting as a fronting company; and

(4) Creates penalties for a violation of these provisions.

PRODUCT SERVICE CONTRACTS

The bill:

(1) Prohibits any person from issuing or selling a product service contract without registering and paying a fee to the Director of the Department of Insurance, Financial Institutions, and Professional Registration;

(2) Requires providers of service contracts to maintain at least one of the following:

(a) A funded reserve account of at least 40% of the gross consideration received less claims paid;

(b) A financial security deposit with the department director of at least 5% of the gross consideration received less claims paid;

(c) A net worth of $100 million; or

(d) A reimbursement insurance policy covering 100% of the service contract obligations;

(3) Prohibits the collected provider fees from being subject to premium taxes and exempts the person selling the contract from other state licensing laws if all the requirements are met;

(4) Requires providers of service contracts to furnish a written statement to the consumer specifying the provider's obligations and conveying the terms and any restrictions. Misleading advertising is prohibited;

(5) Requires providers of service contracts to maintain accurate records of every transaction for a period of at least three years after the specified period of coverage has expired. Records must be made available to the department upon request;

(6) Prohibits insurers who issue reimbursement insurance policies from terminating a policy without notifying the department director. Insurers have the right to seek indemnification against a provider if the insurer pays amounts under the service contract that the provider was obligated to pay; and

(7) Creates penalties for a violation of these provisions.

The bill becomes effective January 1, 2008, except for Sections 385.202, 385.206, 385.214, 385.216, 385.218, 385.220, 385.308, 385.314, 385.316, 385.318 and 385.320 which become effective August 28, 2007.