

SECOND REGULAR SESSION

HOUSE BILL NO. 2401

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES TALBOY (Sponsor) AND TILLEY (Co-sponsor).

5448L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 385.206, RSMo, and to enact in lieu thereof one new section relating to motor vehicle extended service contracts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 385.206, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 385.206, to read as follows:

385.206. 1. No person shall directly sell, offer for sale, or solicit the sale of a motor vehicle extended service contract to a consumer, other than the following:

(1) A dealer;

(2) A manufacturer of motor vehicles, as defined in section 301.010, RSMo;

(3) A federally insured depository institution; **or**

(4) A lender licensed and defined under sections 367.100 to 367.215, RSMo[; or

(5) An administrator, provider, manufacturer, or person working in concert with an administrator, provider, or manufacturer marketing or selling a motor vehicle extended service contract demonstrating financial responsibility as set forth in section 385.202].

2. No administrator or provider shall use a dealer as a fronting company, and no dealer shall act as a fronting company. For purposes of this subsection, "fronting company" means a dealer that authorizes a third-party administrator or provider to use its name or business to evade or circumvent the provisions of subsection 1 of this section.

3. Motor vehicle extended service contracts issued, sold, or offered for sale in this state shall be written in clear, understandable language, and the entire contract shall be printed or typed in easy-to-read type and conspicuously disclose the requirements in this section, as applicable.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 4. Motor vehicle extended service contracts insured under a reimbursement insurance
19 policy under subsection 3 of section 385.202 shall contain a statement in substantially the
20 following form: "Obligations of the provider under this service contract are guaranteed under
21 a service contract reimbursement insurance policy. If the provider fails to pay or provide service
22 on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to
23 make a claim directly against the insurance company." A claim against the provider also shall
24 include a claim for return of the unearned provider fee. The motor vehicle extended service
25 contract also shall state conspicuously the name and address of the insurer.

26 5. Motor vehicle extended service contracts not insured under a reimbursement insurance
27 policy pursuant to subsection 3 of section 385.202 shall contain a statement in substantially the
28 following form: "Obligations of the provider under this service contract are backed only by the
29 full faith and credit of the provider (issuer) and are not guaranteed under a service contract
30 reimbursement insurance policy." A claim against the provider also shall include a claim for
31 return of the unearned provider fee. The motor vehicle extended service contract also shall state
32 conspicuously the name and address of the provider.

33 6. Motor vehicle extended service contracts shall identify any administrator, the provider
34 obligated to perform the service under the contract, the motor vehicle extended service contract
35 seller, and the service contract holder to the extent that the name and address of the service
36 contract holder has been furnished by the service contract holder.

37 7. Motor vehicle extended service contracts shall state conspicuously the total purchase
38 price and the terms under which the motor vehicle extended service contract is sold. The
39 purchase price is not required to be preprinted on the motor vehicle extended service contract and
40 may be negotiated at the time of sale with the service contract holder.

41 8. If prior approval of repair work is required, the motor vehicle extended service
42 contracts shall state conspicuously the procedure for obtaining prior approval and for making a
43 claim, including a toll-free telephone number for claim service and a procedure for obtaining
44 emergency repairs performed outside of normal business hours.

45 9. Motor vehicle extended service contracts shall state conspicuously the existence of
46 any deductible amount.

47 10. Motor vehicle extended service contracts shall specify the merchandise and services
48 to be provided and any limitations, exceptions, and exclusions.

49 11. Motor vehicle extended service contracts shall state the conditions upon which the
50 use of nonoriginal manufacturer's parts, or substitute service, may be allowed. Conditions stated
51 shall comply with applicable state and federal laws.

52 12. Motor vehicle extended service contracts shall state any terms, restrictions, or
53 conditions governing the transferability of the motor vehicle extended service contract.

54 13. Motor vehicle extended service contracts shall state the terms, restrictions, or
55 conditions governing termination of the service contract by the service contract holder. The
56 provider of the motor vehicle extended service contract shall mail a written notice to the contract
57 holder within fifteen days of the date of termination.

58 14. Motor vehicle extended service contracts shall require every provider to permit the
59 service contract holder to return the contract within at least twenty business days of mailing date
60 of the motor vehicle extended service contract or within at least ten days if the service contract
61 is delivered at the time of sale or within a longer time period permitted under the contract. If no
62 claim has been made under the contract, the contract is void and the provider shall refund to the
63 contract holder the full purchase price of the contract. A ten percent penalty per month shall be
64 added to a refund that is not paid within thirty days of return of the contract to the provider. The
65 applicable free-look time periods on service contracts shall apply only to the original service
66 contract purchaser.

67 15. Motor vehicle extended service contracts shall set forth all of the obligations and
68 duties of the service contract holder, such as the duty to protect against any further damage and
69 the requirement for certain service and maintenance.

70 16. Motor vehicle extended service contracts shall state clearly whether or not the service
71 contract provides for or excludes consequential damages or preexisting conditions.

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